

ATTACHMENT 1 - EXHIBIT A

CEQA FINDINGS & STATEMENT OF OVERRIDING CONSIDERATIONS

JULY 2015

2211 Harold Way Mixed-Use Project

Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines and Section 21081 of the Public Resources Code

The Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley (City) for the 2211 Harold Way Mixed-Use Project (Project) consists of the Draft EIR, Final Environmental Impact Report Response to Comments Document, and Addition to the Final EIR and Response to Comments Document: DRC Recommended Alternative. The DRC Recommended Alternative was developed and added to the Final EIR in response to comments received during the public review period for the Draft EIR and during the City's Design Review Committee (DRC) review of the proposed Project to address certain design considerations related to the proposed Project. The DRC Recommended Alternative is recommended for approval by City staff and requested for approval by the project applicant. Therefore, throughout these Findings "Project" refers to the DRC Recommended Alternative. The Final EIR identifies significant environmental impacts that will result from implementation of the Project. The City finds that the inclusion of certain mitigation measures as part of Project approval will reduce all but one significant impact to levels that are less than significant. The significant unavoidable impact will result from demolition of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition to the Hotel. Both of these additions contribute to the hotel's historical significance and are included in the property's local landmark designation. No feasible mitigation measures have been identified to reduce this impact to a less-than-significant level; therefore, the impact to cultural resources related to demolition or alteration of on-site historic resources will remain a significant and unavoidable impact of the Project. However this impact is subject to a statement of overriding considerations described in Section 7 below.

As required by the California Environmental Quality Act (CEQA), the City, in adopting these CEQA Findings and Statement of Overriding Considerations, is also adopting a Mitigation Monitoring and Reporting Program (MMRP) for the Project. The City finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the Project. In accordance with CEQA and the *CEQA Guidelines*, the City adopts these findings as part of the Project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City's independent judgment as the lead agency for the Project.

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SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the Project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the Project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.² The *CEQA Guidelines* state in section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's decision on the Project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

- Notice of Preparation and other public notices issued by the City in conjunction with the Project (see Appendix A of the Draft EIR for the Notice of Preparation);

¹ *CEQA Guidelines*, 2012. Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

- September 2014 Draft Infill Environmental Checklist and supporting documentation prepared for the proposed Project (see Appendix A of the Draft EIR for the Draft Environmental Checklist);
- The Public Review Draft EIR, dated October 2014;
- All written and verbal comments submitted by agencies, organizations and members of the public during the public comment period and at public hearings on the Draft EIR and responses to those comments (see Response to Comments Document in Final EIR, dated March 2015);
- The Mitigation Monitoring and Reporting Program;
- All findings and resolutions adopted by the City in connection with the Project, and all documents cited or referred therein;
- Relevant final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the applicant, the City or their consultants, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the Project site; or c) the City's action on the Project; and
- Relevant documents submitted to the City by agencies or members of the public in connection with development of the Project.

1.3 Infill EIR

The EIR is a Project EIR pursuant to CEQA *Guidelines* Section 15161 and an Infill EIR pursuant to CEQA *Guidelines* Section 15183.3. Under CEQA *Guidelines* Section 15183.3(b), to be eligible for streamlined review, an infill project must:

- (1) Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way;*
- (2) Satisfy the performance standards provided in Appendix M; and*
- (3) Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy...*

In addition, Public Resources Code section 21099 of CEQA states that aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area are not to be considered significant environmental impacts.

As discussed in the Infill Environmental Checklist (Appendix A to the EIR), the proposed Project qualifies as an infill project under CEQA *Guidelines* Section 15183.3. It is located in an urban area on a site that has been previously developed. In order to be eligible for streamlined review under Section 15183.3, a project must meet criteria in Appendix M of the CEQA *Guidelines*. Information and analysis demonstrating that this Project satisfies the Appendix M performance standards is provided in the Infill Environmental Checklist in a section titled "Satisfaction of Appendix M Performance Standards."

The Project is consistent with the general use designation, density, building intensity and applicable policies specified for the project area in the City's Downtown Area Plan (DAP) EIR. As

documented in the Infill Environmental Checklist, potential development on the Project site was within the DAP vision and is included in all aspects of the DAP EIR.

Under *CEQA Guidelines* Section 15183.3(c), for eligible infill projects (such as the 2211 Harold Way Mixed-Use Project) CEQA does not require certain analyses that would otherwise be required:

- If a significant environmental effect was analyzed in a prior EIR for a planning level decision, then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
- An effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

The EIR references pertinent City policies and guidelines, certified EIRs and adopted CEQA documents, and background documents prepared or relied upon by the City in preparing the CEQA analysis. A full reference list is contained in the EIR in Section 6.0, *References and Report Preparers*. The Infill Environmental Checklist makes reference to the uniformly applicable development policies or standards that would mitigate certain impacts identified in the Checklist, and also lists the mitigation measures from the DAP EIR (the prior EIR for a planning level decision) that would apply to the proposed Project and address certain identified impacts. Those uniformly applicable development policies or standards and DAP EIR mitigation measures are discussed in the Infill Environmental Checklist and are listed with the project-specific mitigation measures discussed in sections 3 and 4 below.

1.4 Organization/Format of Findings

Section 2 of these findings sets forth the objectives of the Project and contains a summary description of the Project and Project alternatives. Section 3 identifies the Project's potential environmental effects that were determined not to be significant, and do not require mitigation. Section 4 identifies the potentially significant effects of the Project that have been determined to be mitigated to a less-than-significant level. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Initial Study or Draft EIR and Response to Comments Document. Section 5 identifies the significant impacts of the Project, including cumulative impacts, that cannot be mitigated to a less-than-significant level even though feasible mitigation measures have been identified and incorporated into the Project. Section 6 discusses the feasibility of Project alternatives. Section 7 includes the City's Statement of Overriding Considerations.

SECTION 2: THE 2211 HAROLD WAY MIXED-USE PROJECT

This section lists the objectives of the proposed Project, provides a brief description of the Project, and lists the alternatives evaluated in the Draft EIR and Final EIR (the No Project Alternative, Preservation Alternative, and Contextual Design Alternative were evaluated in the Draft EIR; the Design Review Committee (DRC) Recommended Alternative was evaluated in the Final EIR and is now the proposed Project).

2.1 Project Objectives

The objectives of the applicant for the proposed 2211 Harold Way Mixed-Use Project are to:

- Implement the Downtown Area Plan and Street & Open Space Improvement Plan by leveraging the full development potential under Zoning Ordinance standards in order to generate the revenue necessary to provide all of the community benefits envisioned in the Downtown Area Plan, plus additional community and public benefits proposed in the Project application, and maintaining Project financial feasibility.
 - Generate much-needed high-quality, transit-oriented, and sustainable market rate housing; and contribute substantial affordable housing (and/or fees to support development of such housing) as required by Section 22.20.065 of the Berkeley Municipal Code.
 - Establish an attractive and environmentally sustainable residential neighborhood that maximizes transit-oriented density and contributes to a vibrant urban character with 500-600 new residents.
 - Activate the pedestrian environment along Kittredge Street and Harold Way by replacing the existing structure that does not respect the public commons or pedestrian environment, with vibrant, walkable retail and pedestrian amenities.
 - Secure Downtown as a major cinema destination by replacing the theater boxes with state-of-the-art cinemas.
 - Complement Downtown's traditional character by maintaining a continuous street wall, including the tower portions of the Project (similar to the historic Wells Fargo Building) except to create a corner civic space to enhance the historic Library plaza across the street, and stepping the building down at the street to be deferential to the Project's historic neighbors.
 - Transform an important urban block in Downtown Berkeley to a vital, walkable, retail-centered, transit-friendly, residential block with pedestrian amenities consistent with the Downtown Area Plan and the Streets and Open Space Improvement Plan, while maintaining and enhancing the key historic resource on the block.
 - Provide a superior green building using environmentally sustainable siting, development, and construction practices.
 - Use ecologically beneficial landscaping that promotes watershed health and creates safe, comfortable, and inviting open spaces.
 - Help preserve the historic Hotel Shattuck with certain seismic improvements to the underlying retail and basement made possible by the Project as part of reuse of the basement.
 - Encourage alternative modes of transportation for residents, employees, and retail customers. Prioritize the safety and attractiveness of the pedestrian experience. Reduce car use by providing residents and employees with a range of Transportation Demand Management measures that are made possible by the income generated by the Project's size and scale.
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- Generate significant new revenue streams for the City of Berkeley through increased property tax bases, retail revenue, jobs creation, gross receipts taxes, and new residential population that support Downtown businesses.

2.2 Project Description

The 2211 Harold Way Mixed Use Project is a proposed residential and commercial mixed-use development in Downtown Berkeley. The proposed Project discussed throughout this document and described in this section is the DRC Recommended Alternative, which was developed in response to comments received during the public review period for the Draft EIR and during the Project's Design Review Committee review process. (The Project objectives did not change as part of this design change.) 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 existing onsite 1959 Hink's Building would be demolished, and a portion of the Shattuck Hotel (primarily the 1926 addition and interior portions of the 1913 addition) building would be removed or altered to prepare the site for construction of the proposed Project, including some alteration of the underground areas.

The proposed Project would have components of various heights, the highest portion reaching 180 feet in 18 stories. The Project would maintain a generally continuous street wall at the edge of the abutting streets up to where the building would step back toward the interior of the site. The proposed building would step down to 54 feet (five stories) along the street fronts, and at the street fronts would be about 10 feet shorter than the adjacent Shattuck Hotel, but would be about three feet taller than the heights of the public library across Kittredge Street and Armstrong College across Harold Way. Building step backs would occur primarily just above the fifth, 12th, and 16th floors.

The ground floor is proposed to accommodate retail and/or restaurant uses, in addition to residential lobby and amenity areas. A six-theater cinema complex would be located on the ground floor and below-ground levels. Parking would be provided in a three-level subterranean garage. A more detailed description of the proposed Project is provided in Section 4.3, *DRC Recommended Alternative*, of the Final EIR.

2.3 Alternatives

Based on the Project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the *CEQA Guidelines*, the following Project alternatives were selected for analysis:

- **No Project Alternative.** Under the No Project alternative, the Project site would generally remain in its current condition.
- **Preservation Alternative.** The Preservation Alternative is designed to be consistent with Policy HD-1.1 of the Downtown Area Plan. The maximum building height under the Preservation Alternative would be 18 stories. The Preservation Alternative would involve substantial retention of the existing buildings onsite, including the 1912 restaurant addition along Allston Way and the alley west of the 1912 restaurant addition. This alternative would retain the front portions of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way, but may involve façade improvements to activate these frontages. The Preservation Alternative would involve demolition of the non-historic 1959 Hink's building. New construction would occur in the interior of the block and within the footprint of the 1959 building under this alternative. New construction under the Preservation Alternative would occupy as large a footprint as possible while still being sufficiently setback from the 1913 and 1926 additions such that those historic buildings could be preserved in a meaningful way. This alternative would involve rehabilitation of the existing canopied entries along Harold Way and Kittredge Street to accommodate Project entry and exit and conversion of the existing service entry along Harold Way for a new parking garage. The Preservation Alternative

would include a rectangular plaza along the north half of the Harold Way frontage rather than a corner entry plaza as proposed for the Project.

- **Contextual Design Alternative.** The Contextual Design Alternative is designed to be consistent with the Downtown Design Guidelines and to support Downtown Area Plan Policy HD-3.1. The Contextual Design Alternative would retain essentially the same demolition and construction impacts as the Project, while reducing impacts to historical resources to a less than significant level. This alternative would involve demolishing the 1926 addition and the 1959 Hink's building and partially demolishing the 1913 addition. It would retain the 1912 restaurant addition along Allston Way. The footprint of new construction and subterranean parking would be similar to the proposed Project. Car garage access would be provided in the middle of the block along Kittredge Way. New construction would include a 15-foot setback above the fifth floor and zero lot-line setbacks. The massing, scale and materials of new construction onsite would be complementary with the design of the adjacent Shattuck Hotel and the surrounding historical resources. The maximum building height of this alternative would be 18 stories.
- **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 recommended for approval by City staff and requested for approval by the project applicant. Therefore, throughout these Findings "Project" refers to the DRC Recommended Alternative. The DRC Recommended Alternative is similar to the project analyzed in the Draft EIR, but alternative architectural treatments are proposed: the building massing would be shifted slightly toward the southwest corner of the site; and the square footages and details of several components would be slightly revised. The location of the Project, demolition plan, and excavation plans would remain unchanged.

Similar to the project analyzed in the Draft EIR, the DRC Recommended Alternative would have components of various heights, the highest portion reaching 180 feet in 18 stories. However, in this alternative the Allston Way step back would be increased by 23 feet, and building step backs would occur primarily just above the fifth, 12th and 16th floors rather than the fifth and 12th floors considered for the project analyzed in the Draft EIR. 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."

A more detailed description of these alternatives, and required findings, are set forth in Section 6: Feasibility of Project Alternatives.

SECTION 3: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the Project are not significant or are less than significant. The Infill Environmental Checklist included as Appendix A of the Draft EIR, Section 4.0 of the Draft EIR, and Section 4.3, *DRC Recommended Alternative*, of the Final EIR provide a detailed analysis of the less-than-significant impacts of the proposed Project.

3.1 Aesthetics

The proposed Project could result in one adverse aesthetic impact beyond those identified in the DAP EIR, related to the partial obstruction of a vista of Alcatraz Island from some locations at the base of the UC Berkeley Campanile. Under state law (Public Resources Code section 21099(d)), this impact may be noted as adverse, but may not be considered significant; therefore, no additional mitigation is required. In general, the scale and general intensity of proposed development on the site would fall within that envisioned under the DAP EIR. Additional analysis of viewshed impacts was included in the EIR in relation to potential historic impacts, but not in relation to aesthetic impacts. Impacts related to the proposed Project's compatibility with surrounding development are discussed above in the context of aesthetics and visual resources, and would not be significant in this context. However, additional analysis of impacts related to compatibility with surrounding development from a historic resources perspective was included in the EIR discussion of cultural resources.

The subject property is fully developed and there are no rock outcroppings, trees or other substantial natural features located on the property. The Project site is not visible from a State scenic highway, and there are no such highways within the DAP planning area. None of the shadow modeling diagrams for the project analyzed in the Draft EIR suggest that shading impacts would occur to the Crescent, Civic Center Park, or other public open spaces, except for the southern portion of the BART plaza, which would be shaded for approximately one hour on winter afternoons. However, as shown in the DAP EIR on Figure 4.16, this area is largely shaded under existing and DAP-analyzed conditions at this hour as well. None of the shadow modeling diagrams for the project analyzed in the Draft EIR suggest that shading impacts would occur to pedestrian sidewalks. The Project's building massing would be shifted slightly toward the southwest corner of the site when compared to the project analyzed in the Draft EIR; however, the maximum height would remain generally the same. Therefore, the Project would not significantly affect public open spaces and pedestrian sidewalks with shading.

The issue of solar access for neighboring structures is a related land use issue. The modeling confirms that the project analyzed in the Draft EIR would have no impacts to neighboring structures such that access to solar rays for energy production via photovoltaic arrays would be substantially impaired. As such, the City finds that the proposed Project will have a less-than-significant impact to aesthetics.

3.2 Agricultural and Forestry Resources

The Project site and vicinity are located within an urban area in the City of Berkeley. The site is classified as "Urban and Built-Up Land" by the State Department of Conservation. The Project site is not used for agricultural production nor does it support forestry resources. Therefore, the proposed Project will not conflict with existing zoning for an agricultural or forestry use or a Williamson Act contract. As such, the City finds that the proposed Project will have no impact on agricultural or forestry resources.

3.3 Air Quality

The City of Berkeley and the Project site are located in the San Francisco Bay air basin and are within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The latest air quality plan, the *2010 Bay Area Clean Air Plan*, defines a control strategy to reduce emissions and ambient concentrations of air pollutants; safeguard public health by reducing exposure to air pollutants that pose the greatest health risk; and reduce greenhouse gas emissions. The proposed Project will support the goals of the Clean Air Plan; includes applicable control measures from the Clean Air Plan; and will not disrupt or hinder implementation of the any control measures from the Clean Air Plan. Long-term air emission impacts would be those associated with changes in permanent usage of the Project site. Construction of the proposed Project would generate temporary criteria pollutant emissions primarily due to the operation of construction equipment and truck trips. Operation of the proposed Project would consume energy and result in new motor vehicle trips. Short-term and long-term emissions generated by the proposed Project are not anticipated to exceed the BAAQMD's thresholds. The Project would be subject to DAP EIR Mitigation Measure AIR-2, which requires that sensitive receptors be buffered from odors where possible, and when buffering is not feasible, that appropriate mitigation measures, such as air filtration systems or other technologies, be employed to reduce impacts to a less than significant level. The Project would also be subject to DAP EIR Mitigation Measure AIR-3, which requires dust control and diesel particulate matter reduction measures during Project construction. DAP EIR mitigation measures AIR-2 and AIR-3 would apply to the Project, and would be expected to reduce impacts to less than significant levels. Therefore, the City finds that the proposed Project will have a less-than-significant impact on air quality.

3.4 Biological Resources

The Project site and vicinity are located within an urban area in the City of Berkeley and within the DAP area. There is no suitable habitat for special status wildlife on site or adjacent. The Project site does not provide a suitable corridor for wildlife movement, as it is completely developed with existing structures and not adjacent to habitat or wildlife movement areas. As existing street trees affected by the Project would be replaced with an equal or greater number of street trees of species acceptable to the City's Street Trees and Urban Forestry Management Program, no conflict with local policies or ordinances protecting biological resources, including trees, would occur. No adopted Habitat Conservation Plans, Natural Community Conservation Plans or other approved local, regional, or state habitat conservation plans apply to the Project site. The City of Berkeley has adopted bird-safe building standards that are "uniformly applicable development policies for multi-story buildings with the potential for significant bird strikes (City of Berkeley, *Additional Amendments to the Master Use Permit Process, West Berkeley Project EIR*, 2012). Pursuant to these standards, new buildings with the potential for significant bird strikes must adhere to specific design measures, which would be included in the conditions of approval for the proposed Project, as applicable. Therefore, the City finds that the proposed Project will have a less-than-significant impact on biological resources.

3.5 Cultural Resources

As discussed in the DAP EIR, no archaeological or paleontological resources are currently known to exist in the Downtown Area, which includes the Project site. Nevertheless, the DAP EIR identified impacts to unrecorded subsurface archaeological and paleontological resources, and to human remains, as potentially significant but mitigable. The majority of the Project site has been excavated to accommodate the basement level of the existing buildings, reducing the likelihood that resources within approximately 10 to 15 feet of the surface are still present. However, the proposed subterranean parking garage would descend a greater distance than the existing basement, to over 30 feet below existing street grade; thus previously undisturbed resources could be disturbed during excavation for the proposed Project, if they are located on the site. The site is not known to have greater likelihood of

containing subsurface archaeological and paleontological resources or human remains than the DAP area as a whole. Therefore, DAP EIR mitigation measures CUL-3 through CUL-5 would apply to the Project, and would be expected to reduce impacts to less than significant levels. Therefore, the City finds that the proposed Project will not result in significant impacts related to cultural resources beyond those described in Section 4 and Section 5 of this document.

3.6 Geology and Soils

As stated in the DAP EIR, the Downtown Area is not in an Alquist Priolo fault zone and is therefore not an area where structures are at significant risk from fault rupture; however, it is, like all of the East Bay, in an area at high risk from seismic shaking. The Project site and its surroundings are relatively flat, and are not subject to landslides. Because development under the proposed Project would fall within that envisioned under the DAP EIR in terms of location, use, scale and density, the Project would not increase the exposure of people or structures, relative to that analyzed in the DAP EIR, to adverse effects from seismic shaking, seismic-related ground failure including liquefaction, or landslides. While an earthquake of moderate to high magnitude in the region could cause considerable ground shaking at the site, design of all structures on the site using sound engineering judgment and the latest California Building Code (CBC) requirements would make the Project geotechnically feasible. Most of the Downtown Area has already been developed. The use of standard soil erosion control measures during demolition and construction associated with the proposed Project would be expected to minimize erosion from exposed surfaces and reduce soil erosion impacts. A geotechnical report was completed for the proposed Project. It did not identify expansive soils as a potential hazard at the site. Development under the Project would not be expected to face major soil stability concerns, and appropriate foundation design in accordance with current Uniform Building Code requirements, as well as required compliance with the Project-specific geotechnical report, would be expected to reduce any potential soil stability hazards. Lastly, the proposed Project would have access to sanitary sewer systems, and the use of septic systems would be neither required nor permitted. Therefore, the City finds that the proposed Project will less than significant impacts related to geology and soils.

3.7 Greenhouse Gas Emissions

The combined annual emissions from existing development on the Project site would total approximately 1,729 metric tons per year of CO₂E. When subtracted from the new GHG emissions that would result from the project analyzed in the Draft EIR, the net new annual GHG emissions would total approximately 637 metric tons of CO₂E per year. These emissions do not exceed the BAAQMD threshold of 1,100 metric tons per year. The Project would increase total building area by approximately 1% when compared to the project analyzed in the Draft EIR; therefore, the Project's operational emissions would be similar to the project analyzed in the Draft EIR and would not exceed the BAAQMD threshold of 1,100 metric tons per year. The Project would be consistent with the applicable implementation measures in the City's CAP and General Plan. Because the proposed Project would not conflict with state regulations intended to reduce GHG emissions from new development, and represents anticipated growth under the inventory and assumptions of the General Plan and the CAP, GHG emissions from the Project would not conflict with California's commitment to GHG reduction under AB 32, or any other plan, policy or regulation intended to reduce GHG emissions. Therefore, the City finds that the proposed Project will have a less-than-significant impact on greenhouse gas emissions.

3.8 Hazards and Hazardous Materials

A review of regulatory databases, including listed hazardous materials release sites compiled pursuant to Government Code 65962.5, did not identify any hazardous materials releases at or adjacent to the Project site that would adversely affect the proposed Project. Therefore, the Project will not impact the

public or the environment with respect to a reported release or disposal of hazardous materials related to a listed site. The proposed Project would involve excavation of the Project site, both for the subterranean parking garage and for lowering the theater floor. Although unlikely, the potential exists to encounter contaminated soils from historical contamination at sites north of the Project site. However, standard conditions of the City of Berkeley's Toxics Management Division (TMD) require that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the Project's building permit application and be approved by TMD prior to issuance of the building permit. Compliance with these standard City conditions would reduce these potential impacts. A Phase I Site Assessment for the Project site found some materials in the buildings currently located on the Project site that may contain Asbestos-Containing Material (ACM). It found that these materials were in good condition, and recommended no further action other than maintaining potential ACM in good condition under the site's existing Asbestos Operations and Maintenance (O&M) Program. It recommended that all activities involving disturbance of ACM should be conducted in accordance with governmental regulations. The Phase I Assessment also found that lead-based paint (LBP) may exist at the Project site. It concluded that testing would be required in order to determine whether LBP exists. The City of Berkeley recommends that common renovation activities like sanding, cutting and demolition, which can create hazardous lead dust, are conducted properly by trained and certified contractors or individuals. Development of the Project site will not involve the routine transport, use, or disposal of significant quantities of hazardous materials. The site is not located within the vicinity of any public use airports or private airstrips. As stated in the DAP EIR and as is standard City practice, the Berkeley Fire Department and Berkeley Police Department would review any proposed changes to the current Emergency Access and Evacuation routes prior to modification, and would confirm at that time that the proposed improvements would not impede emergency access. Finally, the Project site is not within or adjacent to a wildland fire hazard area. Therefore, the City finds that the proposed Project will have a less-than-significant impact related to hazards.

3.9 Hydrology and Water Quality

As stated under the DAP EIR, construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that Section 17.20.050 of the Berkeley Municipal Code requirements related to storm water are being met, and that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality. The Project site, like the Downtown Area in general, is already developed, and the proposed Project would not increase impermeable areas in a way that would significantly interfere with groundwater recharge. Additionally, development of the proposed Project would therefore not increase the amount of impervious surfaces on the site, and would therefore not increase runoff. The Project would also not introduce new uses that would produce an increase in polluted runoff compared to existing uses. The proposed Project will connect to the EBMUD water system and will not use ground-water at the site. The Project will not place housing or other structures within a 100-year flood hazard zone; will not pose a significant risk to people or structures as a result of levee or dam failure; and will not be subject to inundation by a seiche, tsunami, or mudflows. Therefore, the City finds that the proposed Project would have a less-significant-impact related to hydrology and water quality.

3.10 Land Use and Planning

The Project would have no impact regarding division of an established community, as identified in the DAP EIR for the Plan as a whole. The Project would have no impact regarding Habitat Conservation Plans or Natural Community Conservation Plan, also as identified in the DAP EIR for the Plan as a whole. The DAP EIR identified the potential for wind impacts associated with development allowed under the DAP, and required Project-specific study to identify and address such impacts; a Project-specific study was performed, and impacts were determined to be less than significant. Therefore, impacts related to consistency with policies regarding wind would be less than significant. However,

while the Project would be generally consistent with the majority of applicable General Plan and DAP policies, it would be potentially inconsistent with selected policies regarding preservation and protection of cultural resources. Impacts to cultural resources were analyzed in the Draft EIR and are discussed above and in Section 4 and Section 5 of this document. The Project would be consistent with the type and intensity of other development surrounding the site, and the configuration of the existing city block that the site occupies will remain the same. There are residential and retail uses adjacent to the Project site, and the proposed movie theaters would replace existing movie theaters. Therefore, the City finds that the proposed Project will not result in significant impacts related to land use and planning beyond those described in Section 4 and Section 5 of this document related to cultural resources.

3.11 Mineral Resources

The DAP EIR identified no known mineral deposits of local importance or value to the region or residents of the State, or locally-important mineral resource recovery sites, within the Downtown Area. The Project site is located within an urban area on a developed site and impacts would remain as identified in the DAP EIR. Therefore, the City finds that the proposed Project will result in a less-than-significant impact to mineral resources.

3.12 Noise

New residential units would not be exposed to noise levels that would exceed 70 dBA Ldn, and the 45-dBA Ldn interior standard described in Impact NOI-1 of the DAP EIR would be achieved in all new residential units through typical construction methods. The Project would be consistent with the requirement in DAP EIR Mitigation Measure NOI-1 that shared residential outdoor areas be located behind buildings, in courtyards, or orienting terraces to alleyways rather than streets, whenever possible. Impacts would be within those identified in the DAP EIR for the Plan as a whole. The Project would introduce new commercial land uses adjacent to new and existing residential land uses; however, the types of commercial uses proposed are not anticipated to include substantial loading or unloading activities, operation of heavy mechanical equipment, or other uses that would result in noise that would exceed the City of Berkeley Municipal Code Limits. Project-added vehicle trips would not increase existing traffic more than 36 percent, less than the doubling (200 percent) of traffic that would result in a perceptible increase in traffic noise. Impacts associated with traffic noise would be within those identified in the DAP EIR for the Plan as a whole. Project construction could intermittently generate high noise levels as well as vibration on and adjacent to the Project site. Potential construction noise levels are within with those anticipated by the DAP EIR, which determined that businesses and residences throughout the Downtown Area would be intermittently exposed to elevated noise levels throughout the planning horizon of the DAP. The Project would be subject to DAP EIR Mitigation Measure NOI-5, which requires the use of available controls to reduce construction noise levels, including equipment mufflers, temporary noise barriers, and neighbor notification, and DAP EIR Mitigation Measure NOI-6, which requires site-specific vibration studies, vibration monitoring, and construction contingency plans. Potential noise impacts associated with the Project would be within the impacts identified in the DAP EIR for the Plan as a whole with implementation of the mitigation measures listed above, and would incorporate mitigation measures required by the DAP EIR. Therefore, the City finds that the proposed Project will not result in significant impacts related to noise and vibration beyond those described in Section 4 and Section 5 of this document related to Cultural resources.

3.13 Population, Employment and Housing

The proposed Project could increase the local population by up to 516 persons. This population growth would not be considered substantial in the context of existing population in Berkeley, and would be within the population projections in the DAP EIR. The anticipated population growth associated with the

Project represents approximately 15 percent of the potential population growth that would result from the DAP, and less than 10 percent of the Downtown Area's projected 2015 population (the earliest year for which the proposed Project would be operational).

In addition, the Project does not include infrastructure improvements that would extend roadways or infrastructure into areas which do not currently support residential or other urban uses. Therefore, the proposed Project would neither directly nor indirectly increase population growth in Berkeley beyond that planned for by the City in the DAP. No occupied or vacant residential structures would be demolished to accommodate the Project. As such, the proposed Project would not result in displace existing housing or people. Therefore, the City finds that the proposed Project will have a less-than-significant impact on population, employment, and housing.

3.14 Public Services

The proposed Project will be adequately served by existing public services, such as police and fire protection and school services. Mitigation Measure SVC-5 of the City's General Plan EIR, which requires the City and the BUSD to continue to work together to evaluate the impacts of new development on BUSD facilities, would continue to apply. Because the Project would not lead to population growth beyond that analyzed in the DAP EIR, the Project's impact on police, fire, school, recreational services, library services, and health and human services would not require the construction of new facilities. Therefore, the City finds that the proposed Project will have a less-than-significant impact on public services.

3.15 Recreation

Although the Project would incrementally increase use of community and regional parks and recreation facilities, the City exceeds its goal of two park acres per 1,000 people, and the increase in use would be within that anticipated by the DAP EIR, and is not expected to result in substantial physical deterioration of these facilities. In addition, the proposed Project would include an on-site outdoor common area for use by Project residents. The proposed Project involves the redevelopment of the existing Project site with residential and commercial uses. As discussed above, the Project does not require the construction or expansion of off-site public recreational facilities; therefore, development of the proposed Project would not result in additional environmental effects beyond those described in this document. Therefore, the City finds that the proposed Project will have a less-than-significant impact on recreation.

3.16 Transportation and Traffic

The Project includes street improvements along Harold Way would include seating, bicycle racks, pedestrian-scale street lamps, and potted planting; these improvements would be refined and finalized in coordination with City staff, in accordance with applicable City standards, and would not result in any hazards to local vehicle, bicycle, or pedestrian circulation, or to pedestrian access to the site. The Project driveway configuration is anticipated to provide for adequate traffic operations during both the AM and PM peak hours. Adequate sight distance is also provided. Project off-site public improvements would also be refined and finalized in coordination with City staff, in accordance with applicable City standards, and would not modify any existing roadway or emergency access route that would result in inadequate emergency access. The DAP suggests that Harold Way may be a candidate for reconfiguring as a "slow street," indicating that emergency access via Harold Way is not a critical function of the street.

The Project is anticipated to contribute positively to the pedestrian and bicycle environment surrounding the Project site, and it is not anticipated that the Project will have a significant adverse impact on the

existing and future transit routes serving Downtown Berkeley. In addition, dense mixed-use development in this transit-rich and heavy pedestrian traffic area of Downtown Berkeley was envisioned in the DAP and analyzed in the DAP EIR. Therefore, the City finds that the proposed Project will not result in significant impacts related to transportation and traffic beyond those described in Section 4 and Section 5 of this document.

3.17 Utilities and Service Systems

The proposed Project is an infill development project located in an urban area already served by existing utility systems. The proposed Project will need to install and/or upgrade the following utility connections to the satisfaction of the applicable utility providers: water, waste-water, stormwater drainage, power, and telecommunications services. The proposed Project will increase water demand, wastewater generated, and solid waste; however, these increases could be met by existing service providers. Therefore, the City finds that the proposed Project will have no impact on utilities and service systems.

SECTION 4: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Infill Environmental Checklist, the Draft EIR, and Section 4.3, *DRC Recommended Alternative*, of the Final EIR identified certain potentially significant effects that could result from the Project. However, the City finds for each of the significant or potentially significant impacts identified in this section (Section 4) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the Project; or mitigation measures from the DAP EIR would apply to the Project; which avoid or substantially lessen the significant effects as identified in the Final EIR³ and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the recommended mitigation measures will effectively make the mitigation measures part of the Project. In addition, City Conditions of Approval and compliance with City and other regulations will further reduce Project impacts. Impacts and mitigation measures identified in the Final EIR are listed below (the Infill Environmental Checklist did not identify any Project-specific mitigation measures).

4.1 Cultural Resources

Impact CR-2: The proposed Project would alter the setting of historic landmarks adjacent to and facing the Project, including the Shattuck Hotel, the Public Library, and the former Elks Lodge and Armstrong College buildings because the Project's design elements would be partially inconsistent with the Secretary of the Interior's Standards and the Downtown Berkeley Design Guidelines.

Mitigation Measure CR-2(a) Allston Way Elevation. New construction on the Allston Way elevation shall incorporate horizontal façade elements that reference the roofline of the adjacent 1912 restaurant addition to the Shattuck Hotel. Specifically, new construction shall incorporate a horizontal belt course along its Allston Way façade that corresponds to the cornice and parapet of the 1912 addition. This belt course shall include a cornice element or other horizontal embellishment that projects from the face of the building. (This element could consist of a simple projecting molding, for example, that is stylistically in keeping with the contemporary design of the proposed Project.) By incorporating this belt course, 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.

Mitigation Measure CR-2(b) Kittredge Street Elevation: At the Kittredge Street elevation, the proposed Project includes a two-story "hyphen" that separates the Shattuck Hotel from the 12- and 18-story portions of the Project to the west. Project drawings show the Kittredge Street façade of this portion of the Project as a blank wall, potentially covered in vegetation. Such wall treatment is incompatible with the historic setting. Perforations (such as a door or windows) or other architectural elements shall be incorporated into the design of this wall so as to maintain an active street frontage that is more in keeping with the ground floors of the nearby historical resources and the larger Shattuck Avenue Commercial Corridor.

Mitigation Measure 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 those resources. The proportion and pattern of void to wall in the wall treatments of the proposed Project shall be modified to more closely match that

³ CEQA Guidelines, 2012. Section 15091.

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 the Project, or breaking up the window wall systems with windowless bays.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measures CR-2(a), CR-2(b), and CR-2(c) above would reduce the Project's compatibility impacts on historic resources and would bring the Project into consistency with General Plan policies UD-16 and UD-17 and DAP policy LU-4.2, which call for compatible relationships between new and historic buildings and state that the design and scale of new or remodeled buildings should respect the built environment in the area and consider height, massing, materials, color, and detailing or ornament in relating to surrounding development. Therefore, implementation of the foregoing mitigation measures will incorporate design elements that are consistent with the Secretary of the Interior's Standards and reduce the Project's compatibility impacts on historical resources to a less-than-significant level.

Impact CR-4: Construction activities associated with demolition of the 1959 Hink's building and the 1926 addition to the Shattuck Hotel, and partial removal of the 1913 addition to the Shattuck Hotel, could produce ground vibration or soil movement under the existing foundation of nearby historic resources, compromising the historic building's structural stability.

Mitigation Measure CR-4(a) Foundations Investigation. A registered structural engineer with a minimum of 5 years of experience in the rehabilitation and restoration of historic buildings, meeting the Secretary of the Interior's Professional Qualifications, shall investigate the existing relationship of the foundations of the various portions of the Shattuck Hotel property. Any required test excavations shall be performed only in the presence of the structural engineer. The structural engineer shall prepare a report of findings that specifies modifications to the Project design and/or associated construction activities that are necessary to retain the structural integrity of the Shattuck Hotel (including the original 1910 building, the 1912 addition, and the portion of the 1913 addition proposed for retention).

In consultation with a historic preservation architect meeting the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualifications Standards, the structural engineer (with geotechnical consultation as necessary) shall determine whether, due to the nature of the excavations, soils, method of soil removal and the existing foundations of the Shattuck Hotel, the potential for settlement would require underpinning and/or shoring. If underpinning and/or shoring is determined to be necessary, appropriate designs shall be prepared and submitted for review and approval.

Foundation and shoring shall not use driven or vibration piles. Only cast-in-place or auger piles or micropiles shall be used for shoring, underpinning, and/or new foundations. The existing structure shall be shored at each side of the location where the western portion of the hotel is to be demolished. After the existing structure is shored, an air gap shall be cut between the building to remain and the portion of the building to be demolished at the roof, floor levels and through the above grade walls prior to the demolition of the western portion of the building. The air gap shall be a minimum of 12 inches wide and also be wide enough that no debris can lodge in the gap and transfer vibrations into the portion of the building to remain. The contractor may elect to demolish an entire bay of the existing structure between two column lines so that additional shoring may be

minimized or eliminated. This will prevent the transmission of vibrations from the demolition through the existing structural members and, therefore, limit the potential for structural damage due to the vibrations from the demolition. Any debris that becomes lodged in the gap shall be removed as soon as is safely possible.

All documents prepared in accordance with this Measure shall be submitted to the City of Berkeley Planning and Development Department for approval, and all work required by this Measure shall be at the Project sponsor's expense.

Mitigation Measure CR-4(b) Construction Monitoring. Prior to demolition, the historic preservation architect and structural engineer referenced in Mitigation Measures CR-4(a) 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.

The historical architect and structural engineer shall monitor the Shattuck Hotel during construction and report any changes to existing conditions, including, but not limited to, expansion of existing cracks, new spalls, or other exterior deterioration. Any new cracks, new spalls, or other exterior deterioration shall be repaired to the pre-existing condition as indicated at the end of this section. Monitoring reports shall be submitted to the City of Berkeley Planning and Development Department on a periodic basis. The structural engineer shall consult with the historic preservation architect, especially if any problems with character-defining features of a historic resource are discovered. If in the opinion of the structural engineer, in consultation with the historic preservation architect, substantial adverse impacts to historic resources related to construction activities are found during construction, the historical architect and structural engineer shall so inform the Project sponsor or sponsor's designated representative responsible for construction activities.

Vibrations shall be limited during demolition of the existing below grade wall and foundation concrete so as not to transmit significant vibrations to the remaining structures. The use of jackhammers and smaller hoe-rams with lower impact force shall be used wherever possible to limit vibrations. Larger hoe-rams (rated at greater than 2,000 foot-pounds) shall not be used without a written determination by a qualified testing agency that such rams will not cause vibrations greater than 0.2 inches per second of vertical movement at the existing hotel. Measurements for vibrations shall be taken at the same distance to the vibration source as the Shattuck Hotel building will be from the source during use for construction or demolition. The testing agency used for measuring vibrations shall be experienced in measuring vibrations, as determined by the City of Berkeley Planning and Development Department.

The areas where the demolition will be closest to the existing building and therefore most likely to propagate vibrations to the remaining structures are: demolition of the eastern end of the existing cinema building along Kittredge Street; demolition for the new construction below the hotel at the corner of Shattuck Avenue and Kittredge Street; and demolition of the eastern portion of the former Hink's Department Store addition at Allston Way and Harold Way. At these areas where demolition of below grade concrete will be close to the remaining structures, the concrete shall be demolished using methods that limit vibrations, such as the use of jackhammers and small hoe-

rams with lower impact force, even if it is determined that larger hoe-rams can be used elsewhere on the site.

The structural engineer shall consult with the historic preservation architect, especially if any problems with character-defining features of a historic resource are discovered. Because of the inherent unpredictability of large-scale excavation and construction, there is an unlikely but possible chance that unforeseen damage would occur. If substantial adverse impacts to historic resources related to construction activities are found during construction, and if in the opinion of the structural engineer, in consultation with the historic preservation architect, the historical architect and the structural engineer (monitoring team) shall so inform the Project sponsor or sponsor's designated representative responsible for construction activities. The historical architect and the structural engineer shall make specific recommendations to the Project sponsor, including whether work should stop and whether construction activities should be modified.

Once the historic architect and the structural engineer inform the Project sponsor, the Project sponsor shall adhere to the monitoring team's recommendations for corrective measures, including halting construction or using methods which cause less vibration, in situations where construction activities would imminently endanger historic resources. The City of Berkeley Planning and Development Department shall establish the frequency of monitoring and reporting. The Project sponsor shall respond to any claims of damage by inspecting the affected property promptly, but in no case more than 5 working days after the claim was filed and received by the Project sponsor. A sign shall be posted in a visible place onsite and a letter shall be sent to the hotel owner or manager specifying the monitoring team's contact information prior to the start of construction activities.

Any new cracks or other changes in the Shattuck Hotel shall be compared to pre-construction conditions and a determination made as to whether the proposed Project could have caused such damage. In the event that the Project is demonstrated to have caused any damage, such damage shall be repaired to the pre-existing condition. Site visit reports and documents associated with claims processing shall be provided to the City of Berkeley Planning and Development Department.

All work required by this Measure shall be at the Project sponsor's expense.

Mitigation Measure CR-4(c) Training Program. The historic preservation architect referenced in Mitigation Measures CR-4(a) shall establish a training program for construction workers involved in the Project that emphasizes the importance of protecting historic resources. This program shall include information on recognizing historic fabric and materials, and directions on how to exercise care when working around and operating equipment near the Shattuck Hotel, including storage of materials away from the historic building. It shall also include information on means to reduce vibrations from demolition and construction, and monitoring and reporting any potential problems that could affect the historic resource. A provision for establishing this training program shall be incorporated into the general contractor's contract with the Project applicant regarding construction of the Project, and the contract provisions shall be reviewed and approved by the City of Berkeley Planning and Development Department. All work required by this Measure shall be at the Project sponsor's expense.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measures CR-4(a), CR-4(b), and CR-4(c), which detail measures to be undertaken prior to and during the construction period to investigate foundation conditions, to monitor groundborne vibration from construction, and to implement a training program for construction workers will minimize impacts to historic structures. Documentation of existing conditions by a qualified structural engineer and historic architect will provide a baseline for identifying damage caused during construction. Ongoing monitoring will ensure that if any damage does occur, the appropriate corrective actions will be taken to limit further damage and repair Project-related damage. Therefore, implementation of the foregoing mitigation measure will reduce potential damage to historic structures from groundborne vibration during the construction period to a less-than-significant level.

4.2 Transportation/Traffic

Impact T-2: Development facilitated by the proposed Project would increase future (years 2020 and 2035) traffic levels on the local circulation system. One of the 10 studied intersections would operate at levels of service that exceed its performance standards under the Year 2035 scenario. However, feasible mitigation would improve traffic conditions to acceptable levels.

Mitigation Measure T-2 Dedicated Right-Turn Pocket at Shattuck Avenue/Durant Avenue Intersection: The northbound outside lane at the intersection of Shattuck Avenue and Durant Avenue shall be restriped to provide a dedicated right-turn pocket.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Mitigation Measure T-2, which requires the restriping of the northbound outside lane at the intersection of Shattuck Avenue and Durant Avenue to provide a dedicated right-turn pocket, would improve traffic conditions under the Year 2035 scenario to acceptable levels. Therefore, implementation of the foregoing mitigation measure will reduce impact associated with transportation and traffic to less-than-significant level.

SECTION 5: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The proposed Project would result in a significant unavoidable impact related to cultural resources. A number of mitigation measures are required and imposed, but none would reduce these impacts to a less-than-significant level.

5.1 Cultural Resources

Impact CR-1: The proposed Project would involve demolition of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition to the Hotel. Both of these additions contribute to the hotel's historical significance and are included in the property's local landmark designation.

Mitigation Measure CR-1(a) Documentation: In consultation with the City of Berkeley Planning and Development Department, the Project applicant shall complete Historic American Building Survey (HABS) Level II documentation of the Shattuck Hotel and its setting. This documentation shall include drawings, photographs and a historical narrative.

- Drawings: Existing historic drawings of the Shattuck Hotel (including the original 1910 building and the 1912, 1913 and 1926 additions), if available, shall be photographed with large-format negatives or photographically reproduced on Mylar. In the absence of existing drawings, full-measured drawings of the complex's plan, exterior elevations, and courtyard elevations should be prepared.
- Photographs: Photo-documentation of the Shattuck Hotel (including the original 1910 building and the 1912, 1913 and 1926 additions) shall be prepared to HABS standards for archival photography. HABS standards require large-format black-and-white photography, with the original negatives having a minimum size of 4 x 5 inches. Digital photography, roll film, film packs, and electronic manipulation of images are not acceptable. All film prints, a minimum of 4 x 5 inches, must be hand-processed according to the manufacturer's specifications and printed on fiber base single weight paper and dried to a full gloss finish. A minimum of 12 photographs must be taken, detailing the site, building exteriors, and building interiors. Photographs must be identified and labeled using HABS standards. Color 35mm non-archival photographs of the historical building and grounds shall be taken to supplement the limited number of archival photographs required under the HABS standards described above. Photographs should include overall views of the site; individual views of important building features; exterior elevations of each façade of the complex; views of interior courtyard spaces; and detail views of specific materials or elements.
- Historical Overview: In consultation with the City of Berkeley Planning and Development Department, a qualified historian or architectural historian shall assemble historical background information relevant to the Shattuck Hotel and its setting. Much of this information may be drawn from the Historic Context Report that architecture + history LLC has prepared for the property. The Project applicant shall submit three hard copies and six electronic copies of the drawings and historical overview, along with two sets of photographic negatives, to the City of Berkeley. To ensure its public accessibility, the City of Berkeley will distribute the documentation to the Berkeley Public Library, UC Berkeley's Environmental Design Archives, Berkeley Architectural Heritage Association, the Berkeley Historical Society, and the Northwest Information Center of the California Historical Resources Information System (CHRIS).

Mitigation Measure CR-1(b) Salvage: The Project applicant shall salvage materials from the 1913 and 1926 additions to the Shattuck Hotel for reuse on-site if feasible, as determined by the Zoning Officer, and give local historical societies the opportunity to salvage remaining materials for public information or reuse in other locations. This effort is expected to focus on the additions' multi-pane, metal-sash windows (currently painted over) as well as the ceiling plasterwork in the entry arcade. All salvaged materials shall be stripped of lead-based paint using safe handling methods. If, after 30 days, none of the societies is able and willing to salvage the materials, the materials shall be offered to local architectural salvage companies by placing an advertisement in a website and newspaper of general circulation for at least 30 days. Demolition may proceed only after any significant historic features or materials have been identified (at the applicant's cost) and their removal completed, unless none of the above organizations are interested in salvaging the materials.

Mitigation Measure CR-1(c) Onsite Interpretation: The Project applicant shall incorporate a wall display featuring historic photos of the Shattuck Hotel property and a description of its historical significance into the publicly accessible portion of any subsequent development on the site. This display shall be developed by professionals meeting the Secretary of the Interior's Professional Qualifications (as verified by City of Berkeley planning staff) and experienced in creating such historical exhibits, with the assistance of City of Berkeley planning staff.

Mitigation Measure CR-1(d) Contribution to the Historic Preservation Fund: The Project applicant shall contribute funds to the City to be applied to future historic preservation activities within Downtown Berkeley, including survey work; property research; and evaluation in accordance with the Secretary of the Interior's Standards. Contribution to the preservation fund shall be made only after Mitigation Measures CR-1(a), CR-1(b) and CR-1(c) have been completed.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project; however, implementation of Mitigation Measures CR-1(a), CR-1(b), CR-1(c) and CR-1(d) would not avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level. Therefore, impacts to the historical significance of the Shattuck Hotel will remain significant and unavoidable.

Facts in Support of Finding: Implementation of Mitigation Measures CR-1(a), CR-1(b) and CR-1(c) would document the existing Shattuck Hotel and its setting before they are altered and provide a publicly accessible exhibit of the structures to commemorate their historical significance. Materials from the 1913 and 1926 additions to the Shattuck Hotel would be salvaged for reuse on-site if feasible, as determined by the Zoning Officer, and give local historical societies the opportunity to salvage remaining materials for public information or reuse in other locations. However, this impact would remain significant and unavoidable.

5.2 Cumulative Impacts

As discussed in the Infill Environmental Checklist (Appendix A of the EIR), the project analyzed in the Draft EIR would not have cumulatively considerable impacts in the following environmental issue areas: Aesthetics, Agricultural and Forest Resources, Air Quality, Biological 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, and Utilities and Service Systems. The proposed Project slightly revises the project analyzed in the Draft EIR by shifting building massing and slightly revising project components, but would not increase total building area by more than 1%. Therefore, the proposed Project would also not have cumulative considerable impacts in these environmental issue areas. The Project's potential cumulatively

considerable impacts related to historical resources and traffic were analyzed in Section 4.1, *Cultural Resources*, and Section 4.2, *Transportation/Traffic* of the EIR, respectively, and Section 4.3, *DRC Recommended Alternative*.

Section 4.1, *Cultural Resources*, found that the Project would be consistent with the DAP EIR conclusion that demolition of historic resources within the Downtown Area is a significant and unavoidable cumulative environmental impact. Because the proposed Project would include demolition and alteration of historic structures, the Project's contribution to this impact would be cumulatively considerable for future projects. Section 4.2, *Transportation/Traffic*, found that impacts on impacts to the intersection of Shattuck Avenue and Durant Avenue would be significant but mitigable for the Year 2035 scenario, which includes cumulative development. With implementation of Mitigation Measure T-2 for a right-turn pocket in the northbound direction at this intersection, cumulative impacts would be reduced to a less than significant level. The City finds that the proposed Project, in conjunction with other foreseeable projects, will not result in any cumulatively considerable impacts beyond those identified in the DAP EIR.

SECTION 6: PROJECT ALTERNATIVES

6.1 Project Alternatives

The Final EIR included four alternatives: No Project Alternative, Preservation Alternative, Contextual Design Alternative, and the DRC Recommended Alternative (referred to throughout at this document as the proposed Project). The City hereby concludes that the Final EIR sets forth a reasonable range of alternatives to the 2211 Harold Way Mixed-Use Project that address the significant impacts of the Project, so as to foster informed public participation and informed decision making. The City finds that the No Project Alternative, Preservation Alternative, and Contextual Design Alternative identified and described in the Final EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081.

6.1.1 No Project Alternative. This alternative assumes that the Project would not be implemented and that the site would remain in its current condition. The No Project alternative would not require additional mitigation measures, as there would be no impacts under this alternative. It should be noted that implementation of the No Project alternative would not preclude future proposals for site development.

Findings. The No Project alternative assumes that the existing structures on the site would remain in their current condition. The No Project alternative would eliminate the Project's significant and unavoidable cultural resources impact from demolition of additions to the Shattuck Hotel, would eliminate the Project's significant but mitigable cultural resources design impact, and would eliminate the Project's significant but mitigable traffic impacts. In addition, this alternative would avoid the less than significant impacts in all other issue areas studied in the Infill Environmental Checklist. However, the No Project Alternative would not meet any of the Project's objectives. It would not generate much-needed high-quality, transit-oriented, and sustainable market rate housing; and contribute substantial affordable housing (and/or fees to support development of such housing). It would not establish an attractive and environmentally sustainable residential neighborhood nor would it secure Downtown as a major cinema destination. It would not transform an important urban block in Downtown Berkeley to a vital, walkable, retail-centered, transit-friendly, residential block with pedestrian amenities consistent with the Downtown Area Plan and the Streets and Open Space Improvement Plan, while maintaining and enhancing the key historic resource on the block. It would also not provide a superior green building or use ecologically beneficial landscaping that promotes watershed health and creates safe, comfortable, and inviting open spaces. It would not help preserve the historic Hotel Shattuck with certain seismic improvements to the underlying retail and basement made possible by the Project as part of reuse of the basement. Lastly, it would not generate significant new revenue streams for the City of Berkeley through increased property tax bases, retail revenue, jobs creation, gross receipts taxes, and new residential population that support Downtown businesses.

6.1.2 Preservation Alternative. The Preservation Alternative is designed to be consistent with Policy HD-1.1 of the Downtown Area Plan. The maximum building height under the Preservation Alternative would be 18 stories and new construction would cover approximately 261,964 gross square feet. The uses would include 228,188 square feet of residential (220-244 units), 3,034 square feet of restaurant, 9,101 square feet of retail, and 21,641 square feet of cinema. Under this alternative, movie theaters would be located at the basement and first floor levels and concentrated in the eastern half of the new development, like the proposed Project. The building height would be ten stories at the corner of Harold Way and Allston Way, rather than 12 stories as proposed under the Project.

The Preservation Alternative would involve substantial retention of the existing buildings onsite, including the 1912 restaurant addition along Allston Way and the alley west of the 1912 restaurant addition. This alternative would retain the front portions of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way, but may involve façade improvements to activate these frontages. The Preservation Alternative would involve demolition of the non-historic 1959 Hink's building. New construction would occur in the interior of the block and within the footprint of the 1959 building under this alternative. New construction under the Preservation Alternative would occupy as large a footprint as possible while still being sufficiently setback from the 1913 and 1926 additions such that those historic buildings could be preserved in a meaningful way. This alternative would involve rehabilitation of the existing canopied entries along Harold Way and Kittredge Street to accommodate Project entry and exit and conversion of the existing service entry along Harold Way for a new parking garage. The Preservation Alternative would include a rectangular plaza along the north half of the Harold Way frontage rather than a corner entry plaza as proposed for the Project.

As the Preservation Alternative would retain the portions of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way (but would involve façade improvements to these additions), it would reduce demolition-related impacts to these historic additions to a less than significant level. Mitigation measures CR-1(a-d) would not be required to avoid significant impacts under this alternative. Under the Preservation Alternative, new construction would be considerably set back from the existing historic street façades and would be consistent with the scale, massing and materials of the Shattuck Hotel and other historical resources in the vicinity. As a result, design-related impacts to historical resources would be less than significant under this alternative and mitigation measures CR-2(a-d) would not be required. Under the Preservation Alternative, construction-related impacts related to the historic building's structural stability would be similar to the proposed Project and, as with the proposed Project, Impact CR-4 would remain less than significant with incorporation of mitigation measures CR-4(a-c). This alternative would be required to implement Mitigation Measure T-2 to reduce traffic impacts. In addition, this alternative would be required to implement DAP EIR mitigation measures AIR-2, AIR-3, NOI-1, NOI-5, and NOI-6, which are described in more detail in Section 3.

Findings. The Preservation Alternative would not achieve some of the basic Project objectives related to the provision of high density housing to the same extent as the Project and would implement the DAP vision for downtown to a lesser extent than the Project. Project objectives include implement the DAP and SOSIP by leveraging the full development potential under the Zoning Ordinance standards in order to generate the revenue necessary to provide all of the community benefits envisions in the DAP, plus additional community and public benefits proposed in the Project application, and maintain Project financial feasibility, as well as generate much-needed high-quality, transit-oriented, and sustainable market rate housing and contribute substantial affordable housing. The DAP includes a number of goals and policies related to implementing its vision for high density housing in the downtown area. Environmental Sustainability Goal ES-3 is to "Encourage high density, highly livable development to take advantage of downtown's proximity to regional transit and to improve the availability of diverse walk-to destinations – such as retail, services, culture, and recreation" and Policy ES-3.1 specifically encourages "development with high intensities close to transit, and encourage a mix of uses that allows most needs to be met on foot." Furthermore, the DAP includes Land Use Goal LU-1, which is to "Encourage a thriving, livable downtown that is a focal point for the City and a major destination for the region, with a unique concentration of housing, jobs and cultural destinations near transit, shops and amenities." This alternative would provide fewer housing opportunities in close proximity to existing alternative transportation options and existing goods, services, and job opportunities. Therefore, this alternative would fail to realize the Project objective to implement the DAP and SOSIP to the same extent as the Project while maintaining Project financial feasibility.

In addition, one of the Project objectives is to activate the pedestrian environment along Kittredge Street and Harold Way by replacing the existing structure with walkable retail and pedestrian amenities. Another Project objective is to transform an important urban block in Downtown Berkeley to a vital, walkable, retail-centered, transit-friendly, residential block with pedestrian amenities. The DAP also envisions active and highly functional street fronts in the downtown and includes Historic Preservation and Urban Design Goal HD-4 to "Improve the visual and environmental quality of downtown, with an emphasis on pedestrian environments that are active, safe, and visually engaging. Encourage appropriate new development downtown." Policy HD-4.1 states "Improve the pedestrian experience and the aesthetic quality of Downtown's environments through appropriate design. New construction and building alterations should promote pleasing public open spaces and streets with frequent street-level entrances and beautiful facades. In commercial areas, buildings should encourage activity along the street and generally maintain the urban tradition of no street-level setbacks." Furthermore, Economic Development Policy ED-1.3 is to "Support existing and encourage highly functional and viable new retail, restaurant, and cultural uses (such as theaters, music, museums, and galleries)." Part (c) of Policy ED-1.3 states, "Where continuous commercial and cultural uses are desirable (see "Figure LU-3: Public-Servicing Frontage"), strengthen standards to require and guidelines to encourage street-facing retail, restaurant, cultural, and acceptable alternatives, as part of new development and adaptive reuse." The Preservation Alternative would meet the Project objective and DAP vision to activate the pedestrian environment along most of these street frontages, but would not meet the objective or DAP goals and policies to the same extent as the proposed Project because the Preservation Alternative would involve retention of at least a portion of the existing frontages along Kittredge Street and Harold Way.

Similarly, the Preservation Alternative would not provide a superior green building using environmentally sustainable siting, development, and construction practices to the same extent as the proposed Project. The DAP vision for downtown includes Environmental Sustainability Goal ES-4, which is to "Promote 'green' buildings" with exceptional energy and environmental performance. The Preservation Alternative would provide a slightly reduced green building design compared to the proposed Project because the design and siting of onsite features would be limited by retention of the front portions of the 1913 and 1926 Shattuck Hotel additions. However, the Preservation Alternative would comply with the Project objective of complementing Downtown's traditional character by maintaining a continuous street wall and stepping the building down at the street better than the proposed Project.

In a memorandum submitted by the project applicant dated July 28, 2015, the applicant provides information regarding the financial feasibility of implementing the Preservation Alternative. The memorandum demonstrates, based on financial calculations also provided, that the additional costs and lost profitability of the Preservation Alternative would be sufficiently severe as to render them impracticable to proceed with the Project. This alternative requires retention of the existing street facing building façades at substantial additional expense while requiring that the same façade be substantially altered so that it complies with the DAP Design Guidelines for an appropriate pedestrian environment. This alternative also represents a nearly 35% reduction in the number of dwelling units. While, according to the memorandum and its supporting calculations, the façade retention and modification would represent an increase in overall project costs, this alternative also represents a loss of approximately 50,000 square feet of residential floor area; according to the applicant, these factors in combination would result in construction financing infeasibility.

This alternative would not realize the Project objectives to implement the DAP and SOSIP, particularly those related to high density housing and activating the pedestrian environment along street frontages, to the same extent as the proposed Project, and would be economically infeasible

6.1.3 Contextual Design Alternative. The Contextual Design Alternative is designed to be consistent with the Downtown Design Guidelines and to support Downtown Area Plan Policy HD-3.1. The Contextual Design Alternative would retain essentially the same demolition and construction impacts as the Project, while reducing impacts to historical resources to a less than significant level. This alternative would involve demolishing the 1926 addition and the 1959 Hink's building and partially demolishing the 1913 addition. It would retain the 1912 restaurant addition along Allston Way. The footprint of new construction and subterranean parking would be similar to the proposed Project. Car garage access would be provided in the middle of the block along Kittredge Way. New construction would include a 15-foot setback above the fifth floor and zero lot-line setbacks. The massing, scale and materials of new construction onsite would be complementary with the design of the adjacent Shattuck Hotel and the surrounding historical resources. The maximum building height of this alternative would be 18 stories.

Improvements onsite would encompass approximately 289,707 gross square feet and the massing onsite would be directed toward the southwest corner of the block at Kittredge Street and Harold Way. The Contextual Design Alternative would include 261,064 square feet of residential (269-297 units), 3,739 square feet of restaurant, 11,217 square feet of retail, and 13,690 square feet of cinema uses. Under this alternative, movie theaters would be located at the basement and first floor levels and concentrated in the eastern half of the new development, like the proposed Project.

As the Contextual Design Alternative would also involve demolition of the 1926 addition and partial removal of the 1913 addition, this alternative would have the same significant and unavoidable impacts as the proposed Project. Mitigation measures CR-1(a-d) would be required under this alternative and impacts would remain significant and unavoidable. However, the Contextual Design Alternative was designed to avoid design impacts associated with the proposed Project. The design of this alternative would reduce Project design impacts to a less than significant level and mitigation measures CR-2(a-d) would not be required. Under the Contextual Design Alternative, construction-related impacts related to the historic building's structural stability would be similar to the proposed Project and, as with the proposed Project, Impact CR-4 would remain less than significant with incorporation of mitigation measures CR-4(a-c). This alternative would be required to implement Mitigation Measure T-2 to reduce traffic impacts. In addition, this alternative would be required to implement DAP EIR mitigation measures AIR-2, AIR-3, NOI-1, NOI-5, and NOI-6, which are described in more detail in Section 3.

Findings. While this alternative would be similar to the proposed Project and would meet most Project objectives to a similar extent as the Project, it would not incorporate all design components of the Project. Specifically, one of the Project objectives is to complement Downtown's traditional character by maintaining a continuous street wall except to create a corner civic space to enhance the historic Library plaza across the street. The DAP vision for the downtown area includes Open Space Goal OS-1 to "Enhance public open spaces and streets to benefit pedestrians, improve downtown's livability and foster an exceptional sense of place. In particular, create new public gathering places that support nearby uses and downtown as a destination." Similarly, Economic Development Goal ED-3 is "To make downtown more attractive and economically successful, encourage place-making through the preservation of historic buildings, street and open space improvements, and high-quality new construction." The Contextual Design Alternative would eliminate the proposed corner civic space and therefore would not meet the Project objective to create a corner civic space or realize the DAP vision for a downtown enriched by public gathering places and open space improvements that support nearby uses.

In addition, this alternative would include a reduction of 8,000 square feet or approximately 40% to the cinema floor area, which would make the theater retention physically and economically infeasible. Therefore, the Contextual Design Alternative would not meet the Project objective to secure Downtown

as a major cinema destination by replacing theater boxes with state-of-the-art cinemas. Furthermore, it would not realize DAP Economic Development Policy ED-1.3 to “Support existing and encourage highly functional and viable new retail, restaurant, and cultural uses (such as theaters, music, museums, and galleries).”

In a memorandum submitted by the project applicant dated July 28, 2015, the applicant provides information regarding the financial feasibility of implementing the Contextual Design Alternative. The memorandum demonstrates, based on financial calculations also provided, that the additional costs and lost profitability of the Contextual Design Alternative would be sufficiently severe as to render them impracticable to proceed with the project. According to the applicant, the reduced theater space of approximately 13,000 square feet in this alternative would not provide the program area necessary for the Landmark Cinemas to return to the new theater space. The cinemas are an important request by the Berkeley community for inclusion in the project and a key project objective. The applicant further states that the residential floor area reduction in this alternative would also be a significant contributor to its infeasibility. The Contextual Alternative represents a reduction of approximately 24% of the proposed dwelling units, or approximately 17,000 square feet of leasable floor area. While the overall project construction costs for this alternative would be slightly reduced, the reduction on leasable space would increase the square-foot construction costs of the project as a whole and would result in construction financing infeasibility.

This alternative would not realize the Project objectives to implement the DAP and SOSIP, particularly those related to public open spaces and supporting highly functional retail like theaters, to the same extent as the proposed Project, and would be economically infeasible.

6.1.4 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 the proposed Project discussed throughout this document. The DRC Recommended Alternative similar to the project analyzed in the Draft EIR, 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 project analyzed in the Draft EIR, the DRC Recommended Alternative would have components of various heights, the highest portion reaching 180 feet in 18 stories. However, in this alternative the Allston Way step back has been increased by 23 feet, and building step backs would occur primarily just above the fifth, 12th and 16th floors rather than the fifth and 12th floors considered for the project analyzed in the Draft EIR. 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 project analyzed in the Draft EIR:

- 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, secured bicycle storage spaces would decrease from 100 to 74.

The DRC Recommended Alternative would involve the same demolition plan as the project analyzed in the Draft EIR. As such, this alternative would have the same significant and unavoidable impacts as the project analyzed in the Draft EIR. Mitigation measures CR-1(a-d) would be required under this alternative and impacts would remain significant and unavoidable. In addition, the design of this alternative related to the Allston Way elevation, Kittredge Street wall treatment, and window wall treatment is similar to the project analyzed in the Draft EIR and mitigation measures CR-2(a-c) would be required to reduce design impacts to a less than significant level. However, several changes have been made to the corner entry plaza in the DRC Recommended Alternative that make it more compatible with the historic surroundings than the project analyzed in the Draft EIR; therefore, Mitigation Measure CR-2(d) is no longer required. Although view impacts from Campanile Way and the base of the Campanile related to historical resources were determined to be less than significant in the Draft EIR, the DRC recommended evaluation of this alternative partially because it further reduced the Project's partial obstruction of this view. Under this alternative, construction-related impacts related to the historic building's structural stability would be similar to the project analyzed in the Draft EIR and, as with the project analyzed in the Draft EIR, Impact CR-4 would remain less than significant with incorporation of mitigation measures CR-4(a-c). This alternative would be required to implement Mitigation Measure T-2 to reduce traffic impacts. In addition, this alternative would be required to implement DAP EIR mitigation measures AIR-2, AIR-3, NOI-1, NOI-5, and NOI-6, which are described in more detail in Section 3. As this alternative is the proposed Project discussed throughout this document, the impacts of this alternative are discussed in detail in Sections 3 through 5.

Benefits of this alternative include advancing DAP goals related to land use, environmental sustainability, urban design, and economic development. In addition, this alternative would reduce the proposed Project's obstruction of the westward view from the base of the Campanile and Campanile Way in comparison to the project analyzed in the Draft EIR. Weighing these respective factors, the City finds that, overall, the DRC Recommended Alternative is incrementally superior to the project analyzed in the Draft EIR from an environmental and design perspective and, therefore, is the proposed Project discussed throughout this document.

Findings. The DRC Recommended Alternative would realize the Project objectives, including to implement the DAP and SOSIP, and would be economically feasible.

6.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified among the alternatives. The No Project alternative would be environmentally superior in the technical sense that contribution to the afore-mentioned impacts would not occur.

Of the remaining alternatives, the Preservation Alternative is the environmentally superior alternative. The Preservation Alternative would reduce the Project's significant and unavoidable impact associated with demolition of historic resources as well as the Project's historic resources design impacts, and would also reduce the Project's less than significant impact on views from the Campanile. Of the development alternatives being considered, the Preservation Alternative would provide the most reductions in environmental impacts. It would involve retaining the significant features of the historic structures on site, which would avoid the Project's significant and unavoidable impact related to demolition of historic resources. Therefore, this alternative is considered the Environmentally Superior Alternative of the development alternatives. However, this alternative would not be fully consistent with all of the Project objectives, or realize all of them to the same extent as the proposed Project. Specifically, it would provide fewer housing opportunities in close proximity to existing alternative transportation options and existing goods, services, and job opportunities.

SECTION 7: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable.⁴ CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record.⁵ The proposed Project will result in significant unavoidable impacts related to cultural resources, even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 5 of these Findings. The City further finds that these significant unavoidable impacts are outweighed by the Project's benefits, each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed Project. Those benefits are as follows:

- The Project will transform an important urban block in Downtown Berkeley to a vital, walkable, retail-centered, transit-friendly, residential block with pedestrian amenities consistent with the Downtown Area Plan and the Streets and Open Space Improvement Plan, while maintaining and enhancing the key historic resource on the block.
- The Project advances DAP Environmental Sustainability Goal ES-3 and Land Use Goal LU-1, which encourage high intensity development near transit, by introducing high-quality, transit-oriented, and sustainable market rate housing and contributing substantial affordable housing (and/or fees to support development of such housing) as required by Section 22.20.065 of the Berkeley Municipal Code.
- The Project advances DAP Environmental Sustainability Goal ES-4, which promotes sustainable building practices, by constructing a green building and establishing an attractive and environmentally sustainable residential neighborhood that maximizes transit-oriented density and contributes to a vibrant urban character.
- The Project activates the pedestrian environment along Kittredge Street and Harold Way by replacing the existing structure, which has limited openings and visual permeability/activity, with walkable retail and pedestrian amenities; this advances DAP Goal ES-3, Historic Preservation and Urban Design Goal HD-4, which emphasizes pedestrian environments that are active, safe, and visually engaging, and Policy HD-4.1, which emphasizes improving the pedestrian experience.
- In furtherance of DAP Economic Development Policy ED-1.3, which supports existing cultural uses, such as theaters, the Project maintains Downtown as a major cinema destination by replacing the existing theater boxes with state-of-the-art cinemas.
- The Project will complement Downtown's traditional character by maintaining a continuous street wall, except to create a corner civic space to enhance the historic Library plaza across the street, which is consistent with DAP Economic Development Goal ED-3, and stepping the building down at the street to be deferential to the Project's historic neighbors.
- The Project will help preserve the historic Shattuck Hotel with certain seismic improvements to the underlying retail and basement made possible by the Project as part of reuse of the basement.

⁴ CEQA Guidelines, 2012. Section 15093(a)

⁵ CEQA Guidelines, 2012. Section 15093(b)

- The Project will encourage alternative modes of transportation for residents, employees and retail customers. It will prioritize the safety and attractiveness of the pedestrian experience. The Project will also reduce car use by providing residents and employees with a range of Transportation Demand Management measures that are made possible by the income generated by the Project's size and scale.
- The Project will generate significant new revenue streams for the City of Berkeley through increased property tax bases, retail revenue, jobs creation, gross receipts taxes, and new residential population that support Downtown businesses.
- The Project was developed based on input from the City's Design Review Committee and Landmarks Preservation Commission on project design and urban design concerns about westward views from the UC Berkeley, and reduces view impacts and improves project design compared to the proposed project.
- The Project will be required to provide Significant Community Benefits as per Berkeley Municipal Code Section 23.E.68.090.E, and will contribute to affordable housing, street and open space improvements or fees, childcare mitigation fees, bicycle parking, and other improvements required by the Berkeley Municipal Code.

On balance, the City finds that there are specific considerations associated with the Project that serve to override and outweigh the Project's significant unavoidable effects. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), these adverse effects are considered acceptable.
