



Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T
P R O J E C T S T U D Y S E S S I O N

FOR BOARD REVIEW AND COMMENT
AUGUST 27, 2015 – 6:00 TO 7:00 P.M.

2211 Harold Way Mixed-Use Project

Use Permit #13-10000010 for a mixed-use development, up to 18 stories in height, containing 302 dwelling units, approximately 10,877 square feet of ground-floor commercial space, a ten-theater cinema complex (approximately 641 seats), and 177 underground parking spaces, located in Downtown Berkeley. The project includes removal of the 1926 addition and portions of the 1913 addition to the landmarked Shattuck Hotel.

I. Application Basics

A. Land Use Designations:

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

B. Zoning Permits Required:

- Use Permit to demolish a main building used for non-residential purposes, under BMC Section 23C.08.050.A
- Use Permit to construct a Mixed Use Development, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow over 2,000 square feet of Full Service Restaurant space, under BMC Section 23E.68.030.A
- Use Permit to allow service of distilled spirits incidental to food service, under BMC Sections 23E.16.040.A and 23E.68.030.A
- Administrative Use Permit to allow service of beer and wine incidental to food service, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow amplified live entertainment incidental to food service, under BMC Section 23E.68.030.A

- Use Permit to construct over 10,000 square feet of new floor area, under BMC Section 23E.68.050
- Use Permit to allow building height of over 120 feet but not more than 180 feet, under BMC Section 23E.68.070.B.2
- Administrative Use Permit to allow mechanical penthouse to exceed maximum building height, under BMC Section 23E.04.020.C
- Use Permit to allow building height over 120 feet more than 120 feet in width under BMC Section 23E.68.070.C.1

C. Other Permits Required:

- Design Review and Structural Alteration Permit to allow alteration and construction on a designated landmark site, under BMC Sections 23E.10.020 and 3.24.200

D. CEQA: The ZAB certified the Final Environmental Impact Report (EIR) prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to the California Environmental Quality Act, at their June 25, 2015 meeting.

E. Parties Involved:

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

Table 1: Project Chronology

Date	Task/Event
December 21, 2012	Application for Consideration Submitted
January 9, 2013	Pre-Application Submitted
February 21, 2013	DRC Preview
February 27, 2013	Use Permit (UP) and Structural Alteration Permit (SAP) Applications Submitted

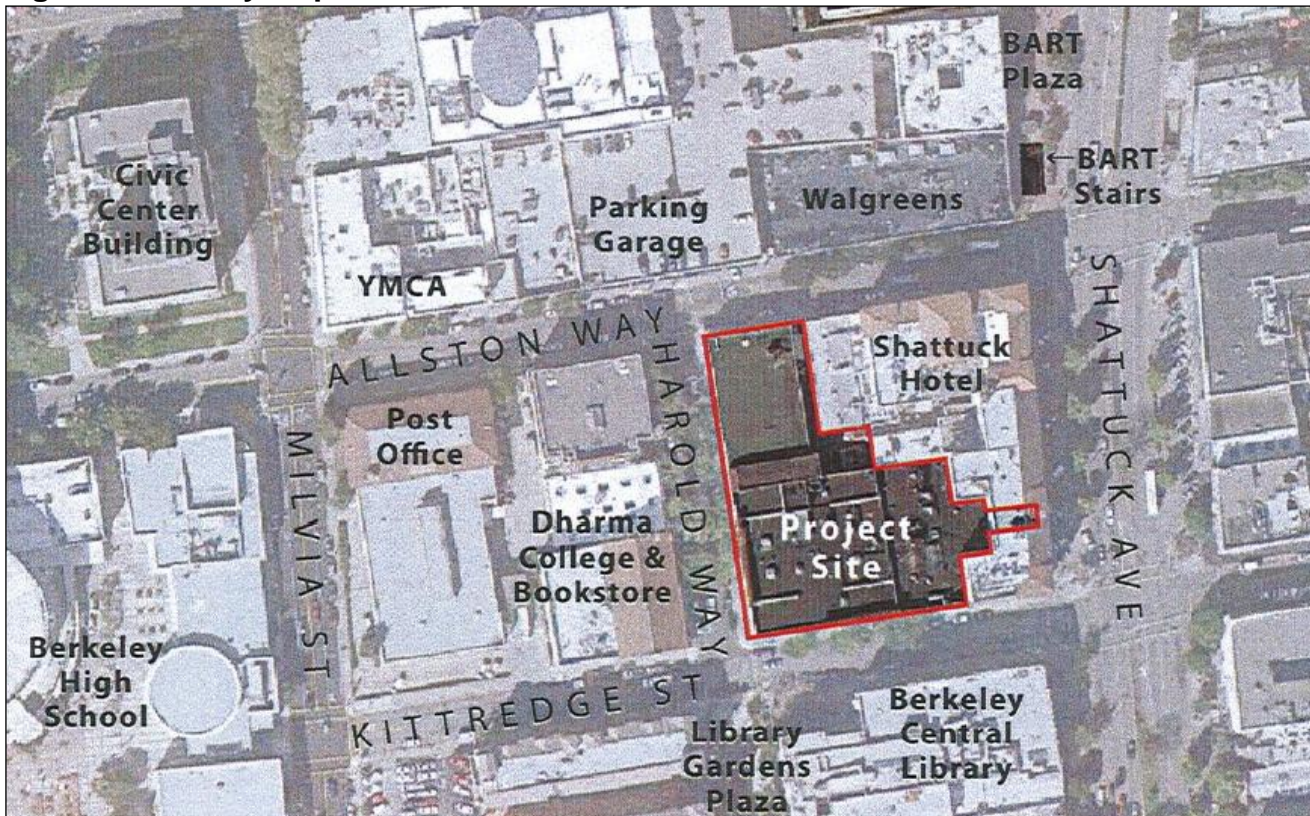
March 7, 2013	LPC Preview
March 14, 2013	ZAB Preview
November 2013	LPC/DRC SF Walking Tour
May 19, 2014	Notice of Preparation (NOP) Released
June 5, 2014	LPC Scoping Session
June 12, 2014	ZAB Scoping Session
October 6, 2014	Publication of Draft EIR
March, April, May, July, October 2014	LPC and DRC Subcommittees
November 4, 2014	DRC DEIR Comment Session
November 6, 2014	LPC DEIR Comment Session
November 13, 2014	ZAB DEIR Comment Session
December 1, 2014 ¹	Close of Draft EIR Comment Period
December 11, 2014	ZAB hearing on Community Benefits
November 20 and December 18, 2014	DRC Preliminary Design Comment
January 8, 2015	ZAB Hearing on Community Benefits
February 26, 2015	LPC Preliminary Design Comment
March 12, 2015 ²	ZAB Passed Community Benefits Referral to Council
March 19, 2015	DRC Preliminary Design Comment
March 30, 2015 ³	Publication of Final EIR/Response to Comments Document
April 16, 2015	DRC Preliminary Design Recommendation
April 23, 2015	ZAB Hearing on Final EIR Certification
May 7, 2015; June 4, 2015	LPC Preliminary Design Review
May 14, 2015	ZAB Hearing on Final EIR Certification Continued
June 15, 2015	Addition to Final EIR: Alternative Published
June 25, 2015	ZAB Final EIR Certification
July 9, 2015	LPC SAP Continued
July 14, 2015 ³	Council Adopts Resolution on Community Benefits
August 13, 2015	LPC SAP Approved
August 27, 2015	ZAB Study Session
<i>September 10, 2015</i>	<i>Anticipated ZAB Study Session</i>
<i>September 30, 2015</i>	<i>Anticipated ZAB Hearing</i>

1. The Draft EIR comment period was originally scheduled to end on November 19, but was extended until December 1, 2014 (for a total review period of 56 days)
2. Prior to passing a resolution on July 14, 2015, the City Council discussed systems for new downtown projects over 75 feet in height to provide significant community benefits on April 7, May 26, and June

25, 2015.

3. The RTC Document was published 24 days before the ZAB hearing on Certification.

Figure 1: Vicinity Map



II. Project Description and Background

The ZAB reviewed the project at a project “preview” on March 14, 2013 and at an EIR scoping session on June 12, 2014. The ZAB held a Draft Environmental Impact Report (DEIR) comment session on November 13, 2014 and hearings on significant community benefits on December 11, 2014 and January 8, 2015. In response to comments made during the environmental review process and design review, the originally proposed project design was revised by the applicant. The revised project analyzed in an “Addition to the Final EIR and Response to Comments Document: DRC Recommended Alternative,” which was published on June 15, 2015 as an addition to the Final EIR. The ZAB certified the Final EIR, including the addition, on June 25, 2015.

The DRC Recommended Alternative is similar to the previously proposed project, but alternative architectural treatments are proposed; the building massing is shifted slightly toward the southwest corner of the site; and the square footages and details of several project components are incrementally changed. The location of the project, demolition plan, and excavation plans would remain unchanged.

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

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

The proposed Project described and analyzed below, and the subject of this staff report and its attachments, is the DRC Recommended Alternative. In summary, the proposed Project is an 18-story mixed-use development with the following main project components:

- 302 dwelling units
- A 10-theater cinema
- Approximately 10,877 square feet of ground-floor commercial (retail and restaurant) space, and
- A 177-space underground parking garage with 74 bicycle parking spaces.

Project plans, dated July 22, 2015, are included as Attachment 1.

III. Findings and Statement of Overriding Considerations

Where a project results in a Significant and Unavoidable impact under CEQA, the City is required to adopt Findings and Statement of Overriding Considerations (Attachment 2). This document describes the potential environmental impacts of the Project, and where mitigation is necessary to reduce an impact, findings are confirming the mitigation has been incorporated. This document also includes a discussion of project alternatives and their feasibility.

As discussed throughout the review of the Environmental Impact Report, mitigation measures 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. 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. Project benefits are described in Section 7 of the Findings and Statement of Overriding Considerations document, and include transforming an important block in Downtown Berkeley and advancing multiple goals of the Downtown Area Plan. The Pro Forma Infeasibility Document for 2211 Harold Way referenced in the Statement of Overriding Considerations is included as Attachment 3.

II. Mitigation Monitoring and Reporting Program

CEQA requires a Mitigation Monitoring and Reporting Program (MMRP) be adopted when the City makes a final decision on the Project (Attachment 4). The MMRP lists mitigation measures recommended in the EIR and the Infill Checklist for the Project and identifies mitigation monitoring requirements. It is intended to ensure compliance during implementation of the project.

III. Draft Conditions of Approval

The City has developed standard Conditions of Approval for projects that reduce potential detriment during construction and operation. The *draft* Conditions of Approval (Attachment 5) include Standard Conditions for All Projects, plus additional conditions which must be addressed prior to construction, during construction, prior to final inspection or Issuance of occupancy permit, and for operations at all times. In addition, there are sets of conditions that address food service, alcohol service, and live music. Conditions focused on the theaters are included.

Two meetings have been held with representatives of the Berkeley Unified School District, and additional Conditions of Approval are being drafted to address their concerns. Attachment 6

provides a summary of the discussion from the July 29, 2015, BUSD meeting and includes “remedy planned” which are being reformatted into Conditions of Approval.

A final version of this document will be provided in the ZAB packet for the September 30, 2015 meeting.

IV. Recommendation

Staff recommends that the ZAB provide advisory comments.

Attachments:

1. Project Plans, dated July 22, 2015
2. CEQA Findings and Statement of Overriding Considerations
3. Pro Forma Memorandum from Applicant, dated July 28, 2015
4. Mitigation Monitoring and Reporting Program
5. Draft Conditions of Approval
6. Harold Way Project Notes, Meeting 7-29-15, Berkeley Unified School District and City of Berkeley
7. Public Meeting Notice
8. Recent Project Correspondence

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