



LANDMARKS PRESERVATION COMMISSION STAFF REPORT

FOR COMMISSION COMMENTS
DECEMBER 1, 2016

1900 FOURTH STREET

Review and comment on the Draft Environmental Impact Report for #ZP2015-0068/LMSAP2015-0005, construction of a proposed mixed use development, containing 155 dwelling units, approximately 30,000 square feet of retail use, and a 372-space parking garage, located on designated City of Berkeley Landmark, West Berkeley Shellmound (Spenger's parking lot).

I. Application Basics

A. CEQA Determination: An Environmental Impact Report (EIR) has been prepared and is available for public comment until January 5, 2017.

B. Parties Involved:

- Applicant West Berkeley Investors, LLC, 550 Hartz Avenue, Suite 200, Danville, CA 94526
- Applicant Representative Rhoades Planning Group, 1611 Telegraph Avenue, Suite 200, Oakland, CA 94612
- Property Owner Ruegg & Ellsworth, 2437 Durant Avenue, Berkeley, CA 94704
- Architects TCA Architects, 19782 MacArthur Boulevard, Suite 300, Irvine, CA 92612
BCV Architects, 1527 Stockton Street, San Francisco, CA 94133
- Archaeological Consultant Archeo-Tec Inc., 5283 Broadway, Oakland, CA 94618

C. Permits Required:

- Structural Alteration Permit (SAP), per BMC Section 3.24.260 to allow construction activities with the potential to affect a designated City of Berkeley Landmark site that is part of a group of several properties designated for their location within the potential boundaries of the West Berkeley Shellmound. As per BMC Section 23E.12.020, the LPC has the responsibility for design review of projects which involve landmarks.
- Demolition Permit, per BMC Section 22.12.060 to allow demolition of the existing commercial building.
- Use Permit, per BMC Section 23E.64.030.A to allow new retail sales uses greater than 7,500 square feet.
- Use Permit, per BMC Section 23E.64.030.A to allow a quick or full service restaurant use.
- Use Permit, per BMC Section 23E.64.030.A to allow a mixed-use development over 20,000 square feet.
- Use Permit, per BMC Section 23E.64.050.B.1 to allow creation of floor area greater than 5,000 square feet.
- Use Permit, per BMC Section 23E.64.060.A to allow restaurant operation from 7 a.m. to 1 a.m. on Fridays and Saturdays.
- Administrative Use Permit, per BMC Section 23E.64.030.A to allow alcoholic beverage service of beer and wine incidental to food service.

D. Approvals Requested Under State Density Bonus Law: The Project applicant is requesting a waiver/modification of the four-story and 50-foot height limit development standards under the State Density Bonus Law (Government Code Section 65915(e)) and this will be processed by the City in conjunction with the permits described above.

Figure 1: Vicinity Map



II. Background

On February 10, 2016, the City circulated a Notice of Preparation (NOP) notifying responsible agencies and interested parties that an EIR would be prepared for the Project and indicated the environmental topics anticipated to be addressed in the EIR. Two public scoping sessions were held for the Draft EIR. The Landmarks Preservation Commission scoping session was held on March 3, 2016 and the Zoning Adjustments Board scoping session was held on March 10, 2016. The NOP and the comments received during the scoping period are included in Appendix A of the Draft EIR; a summary of comments received at the March 3 LPC meeting is the last entry in that Appendix. Those comments were reviewed and addressed as appropriate as part of the preparation of the Draft EIR.

The Draft EIR for the 1900 Fourth Street Project is now available for public review. The public comment period for the Draft EIR began Wednesday, November 16, 2016 and ends Thursday, January 5, 2017 at 5:00 pm. The City has extended the public comment period past the 45 day minimum to accommodate holiday closures. On November 16, 2016, the Draft EIR was distributed to ZAB and LPC members, and notification was sent to various public agencies, property owners and tenants within 300 feet of the Project site, and other interested parties. The Notice of Availability was also posted at the perimeter of the Project site. In addition to the LPC hearing tonight, a public hearing to receive comments on the Draft EIR at the Zoning Adjustments Board is scheduled for

December 8, 2016. The Design Review Committee will conduct preliminary design review on December 15, 2016. See Table 1 below.

The Notice of Availability and Draft EIR may be viewed at the following online location: http://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx. Paper copies are available for review at the Office of the City Clerk and at the City of Berkeley Central Library reference desk. Copies are also available for review and the Zoning Counter at the Permit Service Center.

The purpose of tonight's meeting is to review and comment on the Draft EIR. No action on the Project is required at this time. The Final EIR with the Response to Comments will return to the ZAB for a decision on certification. Following certification of the Final EIR, the LPC can deliberate on the Structural Alteration Permit, and the ZAB can deliberate on the Use Permit.

Table 1: Key Milestones in the EIR Process

(Note: Dates in *italics* are tentative)

Task/Event	Date
Notice of Preparation (NOP) released	February 10, 2016
DRC Project Preview	February 18, 2016
LPC Draft EIR Scoping Session	March 3, 2016
ZAB Draft EIR Scoping Session	March 10, 2016
End of 30-day NOP comment	March 14, 2016
Publication of Draft EIR and Notice of Availability	November 16, 2016
LPC Draft EIR Comment Session	December 1, 2016
ZAB Draft EIR Comment Session	December, 2016
Preliminary Design Review (DRC)	December 15, 2016
Close of Draft EIR comment period	January 5, 2017
Publication of Response to Comments on Draft EIR	<i>Spring 2017</i>
ZAB hearing on EIR certification	<i>Spring/Summer 2017</i>
LPC hearing on Structural Alteration Permit	<i>Spring/Summer 2017</i>
ZAB hearing on Use Permit	<i>Summer 2017</i>

III. Project Description

The approximately 2.21-acre 1900 Fourth Street Project site occupies the block surrounded by Hearst Avenue to the north, Fourth Street to the east, University Avenue

to the south, and the Union Pacific Railroad (UPRR) corridor to the west. The Project site is located within the Fourth Street shopping area in West Berkeley. The site is also part of a group of several properties designated by the City of Berkeley's Landmarks Preservation Commission as a Landmark site due to its association with the West Berkeley Shellmound.

The proposed Project would result in demolition of the existing 900 square-foot, one-story structure and approximately 350-space surface parking lot on the Project site and redevelopment of the site with a mix of residential and commercial uses within two separate buildings totaling 191,362 gross square feet, as well as associated parking and circulation, open space, landscaping, and utility improvements. The proposed Project would include development of 155 residential units and 30,000 square feet of retail and restaurant space as well as 372 parking spaces within a parking garage. Building heights along Fourth Street would be lower and setback from the street frontage, while the five-story building components would be concentrated at the interior of the site and along the UPRR corridor and University Avenue/Fourth Street frontages. Maximum proposed building heights would be 71 feet to the top of the parapet at its greatest extent, which is the measurement required and defined by the Zoning Ordinance (Section 23F.04.010, "Height of Building, Maximum"). The roofline would generally be 60 feet above grade. A total of approximately 13,032 square feet of open space would be provided at the ground level, second-story, and rooftop.

The proposed Project would be built on a deep foundation secured by pre-cast, pre-stressed concrete piles or drilled displacement piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Alternatively, shallow-footing foundation elements supported on underlying geopiers or drilled concrete displacement columns may be used. No pile driving would occur. Foundation depths are anticipated to range between 4 and 12 feet. Piles may extend up to a maximum of 50 feet below grade.

IV. Draft EIR and Associated Initial Study

Pursuant to the California Environmental Quality Act (CEQA), an EIR is required when a Project may have a significant impact on the physical environment, and that impact cannot be reduced to a less-than-significant level through mitigation. The Draft EIR is intended to inform decision-makers and the general public of Project impacts and potential alternatives that would avoid or reduce those impacts. The Draft Initial Study, included as Appendix B to the Draft EIR, indicates that significant effects of the proposed Project would be limited to the topics of Cultural (Archaeological) Resources, Traffic and Circulation, Air Quality, and Noise and Vibration. All other impacts were examined in the Initial Study and were found to be less than significant (either with or without mitigation). Therefore, the Draft EIR evaluates only the aforementioned environmental topics in detail.

Because of the Commission's purview under the Landmarks Preservation Ordinance, its review will be focused on the adequacy of the document with respect to potentially significant impacts to historic architectural resources and archaeological resources, including the West Berkeley Shellmound, mitigation measures to reduce the severity of historic resources impacts, as well as alternatives to avoid impacts to historical archaeological resources.

A. Cultural Resources. Cultural resources are analyzed in Section V, Cultural Resources in the Initial Study and Section IV.A, Cultural Resources in the Draft EIR as summarized below.

Historic Architectural Resources. The Project site includes one built-environment resource consisting of a single-story, approximately 1,600 square-foot, rectangular commercial building constructed in 1955 at 701 University Avenue. An Architectural Eligibility Evaluation was conducted for this building and the evaluation is included as Appendix A to the Initial Study and is summarized on page 40 of the Initial Study. The proposed Project would demolish this building; however, this building was determined not to be a historical resource for the purposes of CEQA. Demolition of this building would result in a less than significant impact.

Archaeological Resources. The Project site is part of the West Berkeley Shellmound. Chapter IV, Section A, beginning on page 67 of the Draft EIR, describes the baseline conditions for archaeological cultural resources in the Project site and vicinity, identifies potentially significant impacts to such resources that may result from Project implementation, and identifies mitigation measures to reduce the severity of significant impacts, as necessary.

To establish the baseline conditions for archaeological cultural resources in the Project site and vicinity, the following tasks were completed: 1) background research, consisting of records searches at local repositories and a literature review; 2) consultation with local Native American individuals and groups; and 3) an archaeological excavation at the Project site to determine the presence/absence of archaeological deposits and, if present, the significance and depositional integrity of such deposits. The 2014 archaeological investigation was conducted by the Project applicant's consultant, Archeo-Tec. LSA cultural resources staff, under contract to the City of Berkeley, have reviewed the 2014 archaeological testing report completed for the Project site. The methods used for that study included a pre-excavation geophysical survey (ground-penetrating radar) to identify possible locations of intact archaeological features; standard controls to record the geospatial locations of excavation units and artifacts using a Trimble M3 Total Station; examination of continuous soil profiles in excavation trenches to assess the potential for intact archaeological deposits; screening of matrix to identify archaeological materials; and professional oversight by an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology. These methods are consistent with standard archaeological practice, and it is the opinion of LSA that the

study represents a reasonable and good faith effort to identify archaeological deposits in the Project site. No evidence was found of intact primary Shellmound deposits anywhere within the Project site.

Generally, for purposes of CEQA, the significance of a historical resource is materially impaired when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register or an officially recognized local register of historical resources, or its identification in a historical resources survey meeting the requirements of Public Resources Code Section 5024.1(g). As described in the Draft EIR, while National Register or California Register-eligible Shellmound deposits have not been identified within the Project site during previous excavations, ground-disturbing activities associated with Project construction could unearth previously unidentified intact Shellmound deposits that contribute to the resource's significance under the National Register and California Register. These impacts would have a substantial adverse change on a historical resource due to the destruction of those critical aspects of integrity that qualify it as a City Landmark and for listing in the National Register and California Register.

Implementation of a multi-part mitigation measure would be required to reduce this impact to a less-than-significant level: 1) Before construction-related ground disturbing activities commence, the Project shall be surveyed by a qualified archaeologist using ground-penetrating radar (GPR) to identify those areas where it is most likely that any Shellmound material that may exist is concentrated or dispersed in order to focus archaeological and tribal monitoring efforts; 2) Prior to Project ground disturbance, all construction contractor(s) shall be required to participate in cultural awareness and sensitivity training and a qualified archaeologist that meets or exceeds the Secretary of the Interior's Professional Qualifications Standards in archeology and an Ohlone tribal representative eligible to consult with the City, pursuant to AB 52, shall conduct the training; 3) The archaeologist shall review a utility plan provided by the applicant to assess and document whether trenching for utility connections adjacent to the Project site have the potential to impact intact deposits associated with the West Berkeley Shellmound and if so, what measures would be implemented to mitigate impacts to intact archaeological deposits and associated human remains that may occur; and 4) All Project ground-disturbing activities shall be monitored by an archaeologist and a representative of an Ohlone tribe and all work shall be halted, City shall be notified, and the appropriate measures shall be implemented should archaeological deposits be encountered. Collectively, implementation of these measures would reduce potential impacts from the Project to the City Landmark and intact archaeological deposits to a less-than-significant level. On-site monitoring of ground disturbance by an archaeologist and Ohlone representative would ensure that: 1) if archaeological deposits are identified during excavation, these would be evaluated, documented, and studied in accordance with standard archaeological practice, and 2)

archaeological deposits and human remains would be treated in accordance with appropriate State codes and regulations and according to culturally appropriate norms acceptable to the Ohlone Most Likely Descendant.

In addition to the mitigation measures summarized above, two measures resulting from AB 52 consultation and one City recommended measure are identified that would further lessen impacts to historical archaeological resources through compensation, avoidance, and public outreach. These measures are not required to reduce these impacts to a less-than-significant level, but will be incorporated into the conditions of approval for the Project. The Project applicant will: 1) donate money to the Ohlone Indian Tribe for improvements and maintenance of the Ohlone Cemetery in Fremont; 2) create a GIS database designating areas of archaeological sensitivity, to be used for future project planning purposes within the City of Berkeley; and 3) fund and maintain a publically accessible, permanent display within the City Landmark boundary of the West Berkeley Shellmound that describes the archaeological and cultural significance of the site.

B. Alternatives. The CEQA Guidelines require analysis of a reasonable range of alternatives to the Project, which would feasibly attain most of the Project's basic objectives and avoid, or substantially lessen, any of the significant effects of the Project. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. It should be noted that with the exception of transportation-related level of service impacts at four intersections in the cumulative scenario all of the impacts identified for the proposed Project can be mitigated to a less-than-significant level. The Draft EIR analyzes three alternatives:

1. The No Project Alternative would eliminate both cultural resources impacts without mitigation, but would not meet any of the Project objectives.
2. The Reduced Commercial Use Alternative would not eliminate or substantially reduce any of the cultural resources impacts without mitigation.
3. The Reduced Building Density Alternative would not eliminate or substantially reduce any of the cultural resources impacts without mitigation.

Other than the No Project Alternative, the Reduced Building Density Alternative is identified as the Environmentally Superior Alternative as it would provide the greatest reduction in environmental impacts while meeting most of the Project objectives. However, this alternative would not eliminate or substantially reduce the cultural resource-related impacts of the Project.

VI. Recommendation

Staff recommends the LPC take public comments and forward Commission comments regarding their concurrence with the information, analysis, and conclusions in the document with respect to identification of historical resources, potentially significant project impacts, mitigation measures to reduce the severity of the impacts, as well as alternatives to avoid the impacts.

Attachments:

1. Notice of Availability

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