City of Berkeley

2211 Harold Way
Mixed-Use Project

Final

Environmental Impact Report
Response to Comments Document
SCH# 2014052063

March 2015
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Mixed-Use Project

Final
Environmental Impact Report
Response to Comments Document

SCH# 2014052063

Submitted to:

City of Berkeley Planning Department
Land Use Planning Division
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1.0 INTRODUCTION

1.1 PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the proposed 2211 Harold Way Mixed-Use Project (project). The Draft EIR identifies the likely environmental consequences associated with development of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides a response to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, in response to those comments or to make clarifications to material in the Draft EIR. This document, together with the Draft EIR, constitutes the Final EIR for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On May 19, 2014, the City of Berkeley circulated a Notice of Preparation (NOP) to help identify the types of impacts that could result from the proposed project, as well as potential areas of controversy. The NOP was mailed to public agencies (including the State Clearinghouse), organizations, and individuals considered likely to be interested in the proposed project and its potential impacts. Comments received by the City on the NOP were taken into account during the preparation of the Draft EIR.

The Draft EIR was made available for public review on October 6, 2014 and was distributed to local and State responsible and trustee agencies. Copies of the Notice of Availability of the Draft EIR were mailed to a list of interested parties, groups and public agencies, as well as property owners and residential and commercial occupants within 300 feet of the project site. The Notice of Availability was also posted on and adjacent to the project site. The Draft EIR and an announcement of its availability were posted electronically on the City's website, and a paper copy was available for public review at the City of Berkeley Planning and Development Department.

The 45-day CEQA public comment period began on October 6, 2014 and was scheduled to end on November 19, 2014. At the request of the public and the Zoning Adjustments Board, the comment period was extended to December 1, 2014, for a total comment period of 57 days. The City held hearings on the Draft EIR before the Design Review Committee on November 4, 2014; before the Landmarks Preservation Commission on November 6, 2014; and before the Zoning Adjustments Board on November 13, 2014. The City received 66 comment letters on the Draft EIR (not including public hearing comments). Copies of all written comments received during the comment period and a transcript of the oral comments received at the public hearing are included in Chapter 3.0 of this document.
1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document and the Final EIR, and summarizes the environmental review process for the project.

- **Chapter 2.0: List of Commenters.** This chapter contains a list of the agencies, individuals, and organizations that submitted written comments, and the public hearings that were held, during the public review period on the Draft EIR.

- **Chapter 3.0: Comments and Responses.** This chapter contains reproductions of all comment letters received on the Draft EIR as well as transcripts of verbal comments provided at the public hearings. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the corresponding comment.

- **Chapter 4.0: Draft EIR Revisions.** Corrections to the Draft EIR that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are contained in this chapter. Underlined text represents language that has been added to the Draft EIR; text with strikeout has been deleted from the Draft EIR.
2.0 LIST OF COMMENTERS

This chapter presents a list of comment letters received during the public review period and describes the organization of the letters and comments that are provided in Chapter 3.0, Comments and Responses, of this document.

2.1 ORGANIZATION OF COMMENT LETTERS AND RESPONSES

The 66 letters are presented in the following order: state public agencies (1), regional and local public agencies (2), groups, organizations and individuals (63). Each comment letter has been numbered sequentially and each separate issue raised by the commenter has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1).

2.2 PUBLIC AND AGENCY COMMENTS RECEIVED

The following comment letters were submitted to the City during the public review period.

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In addition to soliciting written public and agency comments on the Draft EIR pursuant to CEQA, during the public review period verbal comments were taken on the Draft EIR at the following public hearings:

- Design Review Committee, November 4, 2014
- Landmarks Preservation Commission, November 6, 2014
- Zoning Adjustments Board, November 13, 2014

Responses to environmental issues raised in these hearings are included in Chapter 3.0 following the written comments and responses.
3.0 COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR, as well as topical responses for recurring comments, are provided in this chapter. All letters received during the public review period on the Draft EIR are provided in their entirety.

Please note that text within individual letters that has not been numbered does not specifically raise environmental issues nor relate directly to the adequacy of the information or analysis within the Draft EIR, and therefore no comment is enumerated or response required, per CEQA Guidelines Section 15132.

Revisions to the Draft EIR necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are included in the responses. Underlined text represents language that has been added to the Draft EIR; text with strikeout has been deleted from the Draft EIR. All revisions are then compiled in the order in which they would appear in the Draft EIR (by page number) in Chapter 4.0, Text Revisions, of this document.

3.1 TOPICAL RESPONSES

This subsection includes topical responses, responses to recurring written and verbal comments relating to the environmental analysis and conclusions in the Draft EIR. These will be referred to in the individual responses in sections 3.2 and 3.3.

As a general introduction, it should be noted that the Final EIR’s conclusions on the character and significance level of environmental impacts are supported by substantial evidence, which is presented in the Draft EIR and further clarified in this Response to Comments document. The City acknowledges that some commenters disagree with some conclusions in the EIR. Consistent with the intent of CEQA and the Guidelines for its implementation, this Final EIR also includes the differing opinions presented by the commenters. As stated in the CEQA Guidelines (Section 15151), disagreement among commenters, including experts, does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts; this is done in this Response to Comments document.


Recurring comments on this topic are summarized below, with responses following each.

- The project’s height, massing and design in relation to other buildings in its immediate vicinity would result in a significant aesthetic impact related to compatibility with surrounding development.

  Aesthetic impacts are discussed wholly in the Infill Environmental Checklist, found in Appendix A to the Draft EIR. Item I, Aesthetics, contains setting and policy background on this topic as well as a discussion of the potential compatibility impacts from an aesthetics perspective. This discussion can be found on pages 69 and 70 and pages 75 through 77 of the Checklist. Along with a discussion of consistency with specific
applicable Downtown Design Guidelines, it concludes that as the project would generally use materials that are compatible with surrounding buildings, and would generally conform to the Downtown Design Guidelines that were developed to promote aesthetic quality in new projects, impacts would be less than significant. The Checklist discussion also refers back to the DAP EIR, which analyzed buildout of the DAP including development on several Downtown Core sites, including the project site, with buildings of 180 to 225 feet in height. The project’s height in itself is not a significant environmental impact. The project site is near the center of a dense downtown with buildings at varying heights including two of similar height within two blocks, and is within the permitted heights for the zoning classification. Neither the DAP EIR analysis, which is incorporated into the Draft EIR by reference, nor the project-specific discussion in the Checklist identified a significant impact related to compatibility.

Thus the potential aesthetic impact is described and disclosed in the Draft EIR. It should also be noted that, as required by California State law, aesthetic impacts of this project cannot be considered significant for purposes of CEQA, and the discussion of such impacts in the Infill Environmental Checklist is for informational purposes only. (State law does allow that lead agencies can still consider aesthetics of a proposed project under design or policy review or other discretionary review powers outside of the CEQA process.) Nevertheless, commenters’ concerns regarding this issue will be forwarded to the City’s decision makers for their consideration. The DAP EIR and Checklist did recognize that compatibility impacts to historic resources could occur, and these are addressed in the corresponding sections of the Checklist and Draft EIR.

- *The project’s height, massing and design in relation to adjacent and confronting historic structures would result in a significant impact to those historic resources.*

Section 8.2.2 of the Historic Resources technical report (HRTR) (Appendix B to the Draft EIR) consists of an analysis of impacts to historical resources that are related to the design of the proposed project. This discussion is incorporated into the Draft EIR in Section 4.1, *Cultural Resources*, under Impact CR-2. As stated on Page 4.1-30 of the Draft EIR, although the project would introduce buildings that would be substantially taller than adjacent historic resources, the difference in height alone would not result in a significant environmental impact to their historic significance or value. This conclusion was reached for the reasons summarized below, as well as the elements of project design discussed below:

- The project site is located in a dense Downtown district;
- The project is set back from the main commercial corridor (Shattuck Avenue), with restricted pedestrian views as seen from narrow, secondary streets (Kittredge Street, Harold Way and Allston Way);
- Nearby identified historic resources, including the Chamber of Commerce (a.k.a. Wells Fargo Building) at 2140 Shattuck Avenue and the First Savings/Great Western (a.k.a. Chase) Building at 2150 Shattuck Avenue are of approximately the same height as the proposed.

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1 See Senate Bill 743, 2013, which states that aesthetic impacts of a mixed-use project on an infill site within a transit priority area may not be considered significant impacts on the environment.
In Section 8.2.2 of the HRTR and in Section 4.1, Cultural Resources, of the Draft EIR, aspects of the proposed design that serve to enhance the compatibility of the proposed project with the Shattuck Hotel and other nearby historical resources are identified. These include:

1. The new construction is kept visually and physically separate from the Shattuck Hotel. On the Allston Way elevation, the existing alley is retained and separates new construction from the 1912 restaurant addition to the hotel. On the Kittredge Street elevation, a two-story “hyphen” (corresponding to one of the new movie theater spaces) separates the Shattuck Hotel from the 12-story portion of the new construction. These separations reduce the extent of direct contact between the new construction and the adjacent hotel, and serve to distinguish the new construction from the historic building.

2. On the Allston Way, Harold Way, and Kittredge Street elevations, floors six and higher are set back approximately 15 feet from floors below. The height of this setback directly references the existing roof line of the former Elks Lodge (2016 Allston Way) across Harold Way, and establishes a five-story base for the proposed construction that is in keeping with the massing and scale of other historical resources in the vicinity, including the Shattuck Hotel, the Post Office (2000 Allston Way), the YMCA (2001 Allston Way), and the Public Library (2090 Kittredge Street). In particular, the setback helps prevent the new construction from overwhelming the adjacent Shattuck Hotel.

   This setback is directly in keeping with the Downtown Berkeley Design Guidelines pertaining to building height, including:

   • Respect the height of neighboring buildings, and provide a sense of continuity and enclosure which avoids abrupt changes in height.

   • New buildings should step down to respect the height of existing residential buildings where they are on parcels with a residential zoning designation.

3. The massing is broken up by varied rooflines and materials, which prevents the new construction from presenting a monolithic appearance.

4. A large portion of the proposed exterior elevations consist of brick veneer walls with punched windows. The size and rhythm of these windows, and the overall relationship of void to wall in this portion of the new construction, echoes the walls and windows of nearby historic buildings.

Taken together, these aspects of the project design prevent the height and scale of the project from having a significant impact on historical resources.

To further clarify the conclusions, the following sentence has been added to Section 8.2.3 of the HRTR and on Page 4.1-30 of the EIR:
In ARG’s professional opinion, the aspects of the design described above, including physical separation from historic buildings; setbacks at upper stories; and variations in massing, rooflines and materials, in combination with the project’s location along narrow streets in a dense downtown near identified historic buildings of similar height, prevent the height and scale of the project, in and of themselves from having a significant impact on historical resources.

That said, other aspects of the project design present potential significant impacts to historical resources because they would not meet the Secretary of the Interior’s Standards and do not comply with elements of the DAP Guidelines. Mitigation Measures CR-2a, CR-2b, CR-2c and CR-2d in the EIR address those impacts and, if implemented, would mitigate those impacts to less than significant.

The City has considered the opinions expressed in the comments regarding potentially significant compatibility impacts to historic resources, has weighed those opinions in light of the evidence and analysis in the Draft EIR, and has confirmed that the conclusions reached in the Draft EIR remain correct. Nevertheless, commenters’ concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.

B. Topical Response: Westward View from Campanile Way.

Recurring comments on this topic are summarized below, with responses following each.

- The project’s change to the westward views from Campanile Way would result in a significant aesthetic impact to the view.

Aesthetic impacts are discussed wholly in the Infill Environmental Checklist, found in Appendix A to the Draft EIR. Item I, Aesthetics, contains setting and policy background information about scenic views, including from the UC Campus, that could be affected by the proposed project, as well as a description of the potential view impacts from an aesthetic resources perspective. This discussion concludes that changes to the westward view from Campanile Way would be an adverse aesthetic impact of the project. In addition, the Infill Environmental Checklist, under Item X, Land Use and Planning, identifies that the proposed view obstruction would be inconsistent with General Plan Policy UD-31, which states that “Construction should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island…” As also noted in the Infill Environmental Checklist, the DAP EIR analyzed views of the bay from the top of the UC Berkeley Campanile (Sather Tower, officially), and modeled DAP buildout included a 225-foot building on the project site. The DAP EIR concluded that structural massing potentially accommodated by buildout under the DAP would not substantially affect the bay view or long-range views across the bay, and that that impact would be less than significant.

Thus the aesthetic impact is recognized, described and disclosed in the Draft EIR. However, it is further noted that, as required by California State law (Senate Bill 743, 2013, which says that aesthetic impacts of a mixed-use project on an infill site within a
transit priority area may not be considered significant impacts on the environment), although recognized as adverse, this impact cannot be considered under CEQA, and the discussion of such impacts in the Infill Environmental Checklist is for informational purposes only. Nevertheless, lead agencies continue to maintain the authority to consider aesthetic impacts pursuant to local design review or other discretionary powers, and commenters’ concerns regarding this issue will be forwarded to the City’s decision makers for their consideration. In addition, the Draft EIR considered potential impacts to the views from Campanile Way under Section 4.1 Cultural Resources, and, as discussed there, the westerly views from Campanile Way are character-defining features of a landscape element (Campanile Way) that has been identified as a contributor to a cultural landscape (the Classical Core of the UC Berkeley Campus).

- The layout of the Campanile Way and its flanking buildings and landscaping was originally planned without the trees; i.e. the trees that would now block much of the project from view are not part of the historic setting that the project should be measured against/should be considered a baseline for the historic resources discussion. In addition, the trees may be trimmed, burn, fall or die, so should not be part of the baseline (existing) condition for CEQA purposes.

The term “baseline” in the context of CEQA generally refers to the time and the conditions that are used as the point of comparison with proposed future conditions of a project for determining the significance of a project’s environmental impacts. As stated in the state’s CEQA Guidelines in Section 15125(a), normal CEQA baseline consists of “the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced...This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” Therefore, the City properly evaluates project impacts, including the change to the view from Campanile Way, based on existing conditions at the time the NOP was published and the photographs taken for the EIR photosimulations (May 2014 and February 2014, respectively), which include the trees in their current condition.

Several commenters pointed out that the trees could burn, die or be removed, thus changing the view of the project as seen from Campanile Way. Although no tree removal or major tree trimming is currently proposed at this location by UC Berkeley (Jennifer McDougall, Principal Planner, UC Berkeley Capital Projects, personal communication 12/22/2014), it is true that unforeseen conditions or events could affect the trees. Similarly, the trees could continue to grow, and new trees could grow, obscuring larger areas of the existing view and that of the proposed building. However, none of these scenarios is reflected in the Draft EIR analysis which, as noted above, uses existing conditions at the time the NOP was published and the photographs taken for the EIR photosimulations (May 2014 and February 2014, respectively) as the environmental baseline. This is because CEQA discourages speculation. The CEQA Guidelines state in Section 15187 that “where specific data is not available, [the lead agency]...is not required to, nor should it, engage in speculation or conjecture.”

- Based on the original and subsequent UC Berkeley campus plans and the history of the campus, the westward view from Campanile Way is not only integral to Campanile Way, but is a historic...
A number of commenters stated an opinion that the westward view from Campanile Way is a historic resource in its own right, and the Landmarks Preservation Commission (LPC), at its hearing of November 6, 2014, adopted a motion formalizing their opinion that “that the DEIR is deficient in that the view corridor from the Campanile of the Golden Gate is a significant historic resource that is impacted by the project and alternatives should be provided for its preservation.”

Neither the commenters nor the LPC or its commissioners have provided specific evidence or information differing from that presented in the Draft EIR regarding the historic background, planning, construction or documentation of development of the UC Berkeley campus. The commenters’ statements that Campanile Way is an established view dating back over a century; that the view was an important factor in determining the alignment of Campanile Way; and that subsequent campus development along its edges (e.g. Wheeler Hall, the Doe Library and Annex, and Dwinelle Hall) generally respected the view to the southwest are not in dispute, and are consistent with the information presented in the Draft EIR. Rather, the commenters disagree with the Draft EIR’s conclusion, based on UC Berkeley’s Landscape Heritage Plan (2004), and consistent with the 2020 Long Range Development Plan (2005), and the UC Berkeley Campus Multiple Resource Area National Register nomination (1982), that the view is a character-defining feature of a historic resource (Campanile Way) that has been identified as a contributing element to a historic cultural landscape (the Classical Core of the UC Berkeley campus). This conclusion is supported by the discussion on pages 4.1-16 through 4.1-18 of the Draft EIR.

On November 25, 2014 a landmark application for Campanile Way was submitted by at least 50 residents of the City of Berkeley. While application materials have not been submitted at this writing, the property description is limited to the land on which the Campanile Way itself is located. It should be noted that no action has been taken on this not-yet submitted application and, in any event, LPC decisions to designate new landmarks can be appealed to the City Council. Accordingly, the view itself is not considered a local landmark for CEQA purposes at this time.

In the absence of new or additional information to challenge this conclusion, the City has considered the opinions expressed in the comments regarding the view as a resource unto itself, has weighed those opinions in light of the evidence and analysis in the Draft EIR, and has confirmed that the conclusions reached in the Draft EIR remain correct. Nevertheless, the City may consider impacts to this view pursuant to urban design policy, and commenters’ concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.

• Even if the view is not a historic resource in its own right, blocking of even a small part of the view is a significant impact to the resource (Campanile Way).
Several commenters stated opinions that regardless of whether the view itself is or is ultimately designated as a historic resource in its own right, blocking of even a small part of the view would be a significant impact to the existing historic resources (Campanile Way and the Classical Core of the UC Berkeley campus).

These opinions are noted. However, as stated in the Draft EIR in Section 4.1, *Cultural Resources*, enough of the view – in fact the majority of it – would remain to convey Campanile Way’s significance in relation to westward views. (See Figure 4.1-3 Viewpoint Key Map to identify viewpoints.) The majority of the Bay and the Golden Gate, and a small portion of Alcatraz Island, would still be visible. In addition, the project would block only a portion of the existing view from the middle of the stairs immediately west of the Campanile (as one stated in Comment Letter 4, this is “where most people go to experience the view”) (Viewpoint 2), and which is identified as a formal viewpoint in the Landscape Heritage Plan. View blockage from many other points at the base of the Campanile and areas to the immediate west would be less substantial, particular in the southern half of the base area (Viewpoint 4) and Campanile Way below. As shown in Figures 4.1-5 and 4.1-6, simply moving from one side of the staircase to the other would diminish the impact and in fact the project would not be visible from the south side of the staircase.

Furthermore, the fact that only part of the view would be blocked is but one component of the analysis supporting the conclusion that view-related impacts to historic resources would be less than significant. As discussed in the HRTR (pages 32 to 33) the views along Campanile Way are not fixed, but have changed over time as development both along its edges and below has spanned three eras of the UC Berkeley campus. Construction along its developed edges included that of the Valley Life Sciences Building in 1930, which changed northwestern views, while construction below the campus included the Berkeley Community Theater on the Berkeley High School campus which changed western views. As discussed in Section 4.1, the view impacts associated with the proposed project would constitute a change to, but not the elimination of, a character-defining feature (the view) of Campanile Way, which as a contributor to the historic cultural landscape of the Classical Core of the UC Berkeley campus, is considered a historic resource. But because this change would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus itself, and because enough of the view would remain to convey Campanile Way’s significance in relation to westward views over the City towards the Golden Gate, the impact would be less than significant. Nevertheless, commenters’ concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.

- *Alternatives should be included in the EIR that eliminate the view impact.*

In Section 15126, the CEQA Guidelines state that “An EIR shall describe a range of reasonable alternatives to the project...which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” As the view impact would be less than significant, CEQA does not require consideration of an alternative that would avoid this impact.
It should be noted that both of the project alternatives that include new construction studied in the Draft EIR include shorter building heights in the northern portion of the project site. The Contextual Design Alternative would be one story lower, with an increased setback at the seventh floor pulling the building mass further from the view corridor, and the Preservation Alternative would be two stories lower. Both would reduce the portion of the view blocked by the new building. As the applicant has also removed the trees from the northern portion of the northern rooftop deck, the view impact would be further reduced. Please see figures 1 through 6 below for a simulated view of the two alternatives from the three UC Berkeley Campus viewpoints used in the Draft EIR from which the project would be visible. Finally, please see Section 4.2 at the end of this document for revised figures showing the project as currently proposed, i.e. without rooftop trees or trellises on the northern portion of the proposed rooftop deck.

C. Topical Response: Adequacy of the Draft EIR Alternatives

Recurring comments on this topic are summarized below, with responses following each.

- **The EIR should include a smaller alternative that is more compatible and contextually designed.**

  Several commenters stated that the EIR should include a smaller alternative that is more compatible and contextually designed. Other than in regards to size, the commenters did not provide specific reasons that the alternatives studied in the Draft EIR were not compatible enough, nor did they provide specific design changes to do so.

  The Preservation and Contextual Design Alternatives studied in the Draft EIR were specifically crafted to reduce or eliminate project-related impacts that were identified as significant, while meeting as many of the project objectives as possible. Specifically, as described on Page 5-18 of the Draft EIR, the Preservation Alternative was designed to retain portions of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way. In addition, new construction would be considerably set back from the existing historic street facades and would be consistent with the scale, massing and materials of the Shattuck Hotel and other historical resources in the vicinity. As described on pages 5-22 through 5-23 of the Draft EIR, the Contextual Design Alternative would involve the same demolition and construction as the proposed project, but was designed to avoid the proposed project’s design-related impacts to historic resources.
Visual Simulations of the Preservation Alternative

Existing view from UC Berkeley Campanile base at north side of stairs looking west

Visual simulation of Preservation Alternative

Figure 1

Source: Environmental Vision, January 2015

City of Berkeley
Visual Simulations of the Preservation Alternative

Source: Environmental Vision, January 2015

City of Berkeley
Visual Simulations of the Preservation Alternative

Figure 3

Source: Environmental Vision, January 2015
Visual Simulations of the Contextual Design Alternative

Figure 4

Source: Environmental Vision, January 2015

City of Berkeley
Visual Simulations of the Contextual Design Alternative

Existing view from UC Berkeley Campanile at middle of stairs looking west

Visual simulation of Contextual Design Alternative
Existing view from Campanile Way looking west

Visual simulation of Contextual Design Alternative

Visual Simulations of the Contextual Design Alternative

Source: Environmental Vision, January 2015
Because the height of the proposed project was not identified as a significant impact to historical resources, both alternatives feature building heights similar to the proposed project in order to accommodate a number of residential units that is generally similar to the proposed project.

In addition, it should be reiterated that the Alternatives section of the EIR (Section 5.0) was prepared in accordance with Section 15183.3(e) of the CEQA Guidelines. Pursuant to the Guidelines, the analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities.

- **The alternatives studied in the Draft EIR should be in better conformance with Secretary’s Standards and/or Downtown Design Guidelines.**

Commenters opined that the alternatives should be in better conformance with Secretary’s Standards and/or Downtown Design Guidelines, but did not provide specific reasons that the alternatives studied in the Draft EIR did not meet certain standards, guidelines, or policies, nor did they provide specific design changes to do so.

The Preservation Alternative was designed to be in conformance with the Secretary of the Interior’s Standards. Accordingly, the Preservation Alternative consists of substantial retention of the existing buildings on site (with the exception of the non-historic 1959 Hink’s building) with new construction on the interior of the block. Under this alternative, all project-related impacts to historical resources are reduced to less than significant, or less than significant with mitigation. The project retains the portions of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way, reducing demolition-related impacts to less than significant. New construction is considerably set back from the existing historic street façades and is consonant with the scale, massing and materials of the Shattuck Hotel and other historical resources in the downtown. As a result, design-related impacts to historical resources would be less than significant. The construction-related impacts (i.e., from vibration) would be similar to the proposed project and, as with the proposed project, would be less than significant with mitigation.

The Preservation Alternative construction occupies as large a footprint as possible while still being sufficiently set back from the 1913 and 1926 additions such that those historic buildings can be preserved in a meaningful way. Given the project’s location in a dense downtown with restricted pedestrian views as seen from narrow, secondary streets, the setbacks for the new construction would make that new construction visually separate from the existing historic buildings, allowing the historic buildings to continue to express their scale, massing and materials. The intent of the Preservation Alternative is to represent a preservation-based project approach that preserves more than just the façades of these historic additions while meeting most project objectives.

Because it includes partial demolition of the 1913 addition and demolition of the 1926 addition, the Contextual Design Alternative would not be fully consistent with the Secretary’s Standards. This demolition aside, the design of the new construction in this alternative was crafted to be compatible with, yet differentiated from, the surrounding historic buildings, thereby satisfying Rehabilitation Standard 9.
Some commenters suggested an alternative with only minor rooftop additions to the existing buildings. Such an alternative was considered, but ultimately rejected, because it would not meet enough of the project objectives to be a viable alternative pursuant to the CEQA Guidelines, which state in Section 15126 that alternatives should attain "most of the basic objectives of the project.”

D. Topical Response: Demolition of the Shattuck Cinemas

Recurring comments on this topic are summarized below, with responses following each.

- **The Shattuck Cinema (also referred to by some commenters as the Landmark Theaters) is a cultural resource and its removal would be an impact to cultural resources, even if replacement theaters are built as there would be a period of time when there are no movies showing and because the programming might change.**

No evidence was found during the preparation of the HRTR indicating that the existing movie theaters or their programming could be considered cultural resources for purposes of CEQA. The theaters date from the 1980s and thus fall short of the 40 or 50-year age threshold required for all but the most exceptional historical resources. While the theaters may be a notable cultural feature of present-day Downtown Berkeley, they do not meet the definition of a “historical resource” under CEQA. (See Chapter 7 of the HRTR.) No changes to the Draft EIR are warranted.

Nevertheless, the public’s interest in the theaters and opposition to their removal is acknowledged and these comments will be forwarded to the decision makers for their consideration.

1. **The interior theater decorations are historic resources and should be preserved on site.**

Character-defining features of the Shattuck Hotel are identified in Section 6.3 of the HRTR. These features include the soffit plasterwork in today’s theater lobby.

Alteration or removal of an interior character-defining feature does not constitute a “substantial adverse change” to a historical resource under CEQA. Instead, the resource’s overall constellation of exterior character-defining features needs to be considered. The theater lobby in which the plasterwork in question resides has been significantly modified through multiple alterations and the space’s integrity has been compromised. (See Section 4.1 of the HRTR.) As a result, removal of the plasterwork does not, by itself, rise to the level of a significant impact to historical resources under CEQA. This plasterwork, however, is of sufficient interest that its potential salvage was incorporated as a component of Mitigation Measure CR-1.

2. **Even if replacement theaters are approved as proposed, they may not ever be built; the EIR should include mitigation requiring that replacement theaters are built as proposed.**

As discussed above, with mitigation CR-1(b), environmental impacts related to the removal of the Shattuck Cinemas would be less than significant. Therefore, mitigation related to replacing the theaters was not required. The Draft EIR analyzed a project...
description including new theaters and assuming they would be built as proposed. The purpose of the EIR is not to apply or suggest regulatory requirements not related to environmental impacts. Nevertheless, the public’s interest in the theaters, opposition to their removal and interest in replacement theaters are acknowledged and these comments will be forwarded to the decision makers for their consideration.
December 2, 2014

Aaron Sage
City of Berkeley
2120 Milvia Street
Berkeley, CA 94704

Subject: 2211 Harold Way Mixed-Use Project
SCH#: 2014052063

Dear Aaron Sage:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 1, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures

cc: Resources Agency
**Document Details Report**  
**State Clearinghouse Data Base**

<table>
<thead>
<tr>
<th>SCH#</th>
<th>2014052063</th>
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<tbody>
<tr>
<td><strong>Project Title</strong></td>
<td>2211 Harold Way Mixed-Use Project</td>
</tr>
<tr>
<td><strong>Lead Agency</strong></td>
<td>Berkeley, City of</td>
</tr>
<tr>
<td><strong>Type</strong></td>
<td>EIR</td>
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<tr>
<td><strong>Description</strong></td>
<td>Draft EIR Note: Extended Review</td>
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Demolition of one structure and removal of portions of another, including eligible historic resources, and additional site preparation including excavation and soil export. Construction of a mixed use project including 302 apartment/condominium units (including 28 affordable units); six new movie theaters to replace the existing Shattuck cinemas that would be removed; 10,535 sf of ground floor retail and/or restaurant uses; 171 parking spaces in a three-level, subterranean parking structure accessed from Kittredge Street; and seismic reinforcement of the basement and ground levels of portions of the adjacent Hotel Shattuck Plaza, a historic landmark. The proposed new building would be 18 stories/160 feet in height.

**Lead Agency Contact**

| **Name**       | Aaron Sage                      |
| **Agency**     | City of Berkeley                |
| **Phone**      | 510 981 7425                    |
| **Address**    | 2120 Milvia Street              |
| **City**       | Berkeley                        |
| **State**      | CA                              |
| **Zip**        | 94704                           |

**Project Location**

| **County**     | Alameda                         |
| **City**       | Berkeley                        |
| **Lat / Long** | 37° 52' 7" N / 122° 16' 7" W   |
| **Cross Streets** | Harold Way/Allston Way/Kittredge Street |
| **Parcel No.** | 057-2027-00600, -700, -800, 900 |

**Proximity to:**

- Highways: Hwy 80
- Airports: No
- Railways: UPRR
- Waterways: SF Bay, Strawberry, Schoolhouse, Derby, Lincoln Creeks
- Schools: Berkeley HS
- Land Use: LU: commercial  
  - Z: Downtown Mixed-Use, Core Area  
  - GP: Downtown Area Plan

**Project Issues**

- Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

**Reviewing Agencies**

- Resources Agency; Department of Fish and Wildlife, Region 3; Office of Historic Preservation;  
  - Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission;  
  - Office of Emergency Services, California; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 4; Air Resources Board; Regional Water Quality Control Board, Region 2;  
  - Native American Heritage Commission; Public Utilities Commission
| **Date Received** | 10/06/2014 | **Start of Review** | 10/06/2014 | **End of Review** | 12/01/2014 |
November 4, 2014

Mr. Aaron Sage
City of Berkeley
2120 Milvia Street
Berkeley, CA 94704

Dear Mr. Sage:


Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. We have reviewed the DEIR and have the following comments to offer.

Transportation Management Plan (TMP)
The DEIR states that the demolition of the existing structure and construction would require approximately 18 to 24 months. Traffic during the demolition of the existing buildings and construction of new buildings may affect the state highway facilities. Discussion of the traffic impact during the construction on state highway system was not included in the DEIR. Please explain how the construction related traffic would affect the operation of the State Highway System.

If it is determined that traffic restrictions and detours are needed on or affecting State highways, a TMP or construction Transportation Impact Study may be required of the developer for approval by Caltrans prior to construction. TMPs must be prepared in accordance with California Manual on Uniform Traffic Control Devices. Further information is available for download at the following web address:
Mr. Aaron Sage, City of Berkeley
November 4, 2014
Page 2

Should you have any questions regarding this letter, please call Keith Wayne of my staff at 510-286-5737 or keith_wayne@dot.ca.gov.

Sincerely,

[Signature]

ERIK ALM, AICP
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse
3.2 WRITTEN COMMENTS

Letter 1

COMMENTERS: Scott Morgan, Director, State Clearinghouse
December 2, 2014

Erik Alm, AICP, District Branch Chief, Caltrans District 4
November 4, 2014

RESPONSE:

Response 1.1

The commenter states that the Draft EIR was distributed to state agencies for review as part of the State Clearinghouse’s CEQA document process. The commenter confirms that the City has complied with the Clearinghouse’s review requirements for Draft EIRs. A comment letter from the Department of Transportation was transmitted from the State Clearinghouse with this letter; responses to the comments in that letter are presented below.

Response 1.2

The commenter asks how construction traffic generated by the proposed project would affect the State Highway system. As noted, site preparation and construction is described on pages 2-48 and 2-49 of the Draft EIR and these activities would require approximately 18 to 24 months. Construction traffic generated by the proposed project is anticipated to be a temporary condition and would vary during construction depending on the construction activities ongoing at any given time. The proposed project is not anticipated to have any special elements of construction that would result in the generation of additional construction trips beyond what would be typical for a project of this size. Furthermore, the City requires a Transportation Management Permit (TMP) for any construction activity within the public right-of-way, and verifies through the TMP review process that no significant impacts to the safety or mobility of pedestrians, bicyclists or motorists will occur. Given these conditions, no traffic impacts to the State Highway system are anticipated to result from the trips generated by construction activities at the project site.

Response 1.3

The commenter states that if it is determined that traffic restrictions and detours are needed on or affecting State Highways, a traffic management plan or construction Transportation Impact Study may be required. It is acknowledged that Caltrans may require the preparation and completion of a traffic management plan or construction traffic impact study prior to initiation of construction for the project. Also see Response 1.2 regarding City requirements for traffic management.
November 19, 2014

Aaron Sage
Senior Planner
City of Berkeley
Planning and Development Department
2120 Milvia St
Berkeley, CA 94704

SUBJECT:  Response to Draft Environmental Impact Report (DEIR) for the 2211 Harold Way Mixed-Use Project

Dear Mr. Sage,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 2211 Harold Way Mixed-Use Project. The project site is a portion of a 1.63-acre property forming one city block in Downtown Berkeley, bounded by and fronting Shattuck Avenue to the east, Kittredge Street to the south, Harold Way to the west, and Allston Way to the north. The proposed project would consist of 302 residential units, 10,535 square feet of retail or restaurant, a 665 seat cinema, 171 auto parking spaces, and 100 bicycle parking spaces.

We have reviewed the application and determined that this project is exempt from review under the Congestion Management Program Land Use Analysis Program as it will not generate 100 p.m. peak hour trips in excess of trip generation expected from the existing land uses.

Per our email correspondence from November 14, 2014, we understand the adjustment factors applied to reflect a project context with lower automobile mode share in the trip generation calculation contained in the DEIR. We have reviewed this calculation and find it to be consistent with the Congestion Management Program and reasonable to support the conclusion that the project will generate fewer than 100 p.m. peak hour trips.

Thank you for the opportunity to comment on this DEIR. Please contact me at (510) 208-7405 or Daniel Wu of my staff at (510) 208-7453 if you have any questions.

Sincerely,

Tess Lengyel
Deputy Director of Planning and Policy

cc: Daniel Wu, Assistant Transportation Planner

file: CMP/Environmental Review Opinions/2014
Letter 2

COMMENTER: Tess Lengyel, Deputy Director of Planning and Policy, Alameda County Transportation Commission (ACTC)

DATE: November 19, 2014

RESPONSE:

Response 2.1

The commenter confirms that the proposed project is exempt from review under the Congestion Management Program Land Use Analysis Program. This comment is noted, and is consistent with the analysis and conclusions of the Draft EIR.

Response 2.2

The commenter states that ACTC has reviewed the trip generation calculation contained in the Draft EIR and found it consistent with the Congestion Management Program. This comment is noted. This comment is noted, and is consistent with the analysis and conclusions of the Draft EIR.
October 13, 2014

Aaron Sage, Senior Planner
City of Berkeley Planning and Development Department
2120 Milvia Street
Berkeley, CA 94704

Re: Notice of Availability of a Draft Environmental Impact Report - 2211 Harold Way Mixed-Use Project, Berkeley

Dear Mr. Sage:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the 2211 Harold Way Mixed-Use Project located in the City of Berkeley (City). EBMUD has the following comments:

WATER SERVICE

EBMUD's Aqueduct Pressure Zone, with a service elevation between 100 and 200 feet, will serve the proposed development. Off-site pipeline improvements, at the project sponsor's expense, may be required to meet domestic demands and fire flow requirements set by the local fire department. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water mains and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

WASTEWATER

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to accommodate the proposed wastewater flows from this project and to treat such flows provided that the wastewater generated by the project meets the requirements of the EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. The East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow (I/I) that enters the system through cracks and misconnections in both public and private sewer lines. EBMUD has historically operated three Wet Weather Facilities to provide primary treatment and disinfection for peak wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to Environmental Protection Agency's (EPA) and the State Water Resources Control
Board’s (SWRCB) reinterpretation of applicable law, the Regional Water Quality Control Board (RWQCB) issued an NPDES permit prohibiting further discharges from EBMUD’s Wet Weather Facilities (WWFs). Additionally, the seven wastewater collection system agencies that discharge to the EBMUD wastewater interceptor system (“Satellite Agencies”) hold NPDES permits that prohibit them from causing or contributing to WWF discharges. These NPDES permits have removed the regulatory coverage the East Bay wastewater agencies once relied upon to manage peak wet weather flows. Various enforcement orders issued between 2009 and the present have allowed EBMUD to temporarily continue operating the WWFs as designed, but these enforcement orders are interim in nature and do not resolve the East Bay’s long-term wet weather issues. To reduce the volume of primary-treated wastewater that is discharged to the Bay, actions will need to be taken over time to reduce I/I in the system sufficiently to reduce peak wet weather flows so that all wastewater can receive secondary treatment.

On July 28, 2014 a proposed consent decree was lodged for public review. This proposed order, negotiated among EBMUD, the Satellite Agencies, EPA, SWRCB, and RWQCB would require EBMUD to continue implementation of its Regional Private Sewer Lateral Ordinance (www.eastbaypsl.com), construct various improvements to its interceptor system, and locate key areas of inflow and rapid infiltration over a 22-year period. Over the same time period, the proposed consent decree would require the Satellite Agencies to perform I/I reduction work including sewer main rehabilitation and elimination of inflow sources. EBMUD and the Satellite Agencies would need to jointly demonstrate at specified intervals that a sufficient, predetermined level of reduction in WWF discharges has been achieved through this work. If sufficient I/I reductions are not achieved, additional investment into the region’s wastewater infrastructure would be required, which may result in significant financial implications for East Bay residents.

As stated, EBMUD’s NPDES permit for the WWFs prohibits discharges. If the consent decree is adopted as anticipated, it will require a demonstration of continuous improvement in reducing the volume of discharges over time. Meeting these legal requirements will require I/I reduction, which in turn requires sewer main and sewer lateral repair. To ensure that the proposed project contributes to these legally required I/I reductions, the lead agency should require the project applicant to comply with EBMUD’s Regional Private Sewer Lateral Ordinance. Additionally, it would be prudent for the lead agency to require the following mitigation measures for the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems, including sewer lateral lines to ensure that such systems and lines are free from defects or, alternatively, disconnected from the sanitary sewer system, and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent I/I to the maximum extent feasible while meeting all requirements contained in the Regional Private Sewer Lateral Ordinance and applicable municipal codes or Satellite Agency ordinances.
If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning, at (510) 287-1365.

Sincerely,

[Signature]

William R. Kirkpatrick
Manager of Water Distribution Planning

cc: Joseph Penner
    HSR Berkeley Investments, LLC
c/o Rhoades Planning Group
    1611 Telegraph Avenue, Suite 200
    Oakland, CA 94612
Letter 3

COMMENTER: William R. Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District

DATE: October 13, 2014

RESPONSE:

Response 3.1

The commenter states which water facilities would serve the proposed project if it were approved. This information is noted. The commenter also lists certain potential off site improvements that may be required if the project were approved. The improvements described would include upgrades to existing infrastructure in established utility corridors, and would not result in additional environmental impacts beyond those described in the Draft EIR.

Response 3.2

The commenter states that the East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow that enters the system through cracks and misconnections in both public and private sewer lines, and that to ensure the proposed project contributes to legally required infiltration and inflow reductions, the proposed project should be required to comply with EBMUD’s Regional Private Sewer Lateral Ordinance and implement mitigation measures. EBMUD’s ordinance establishes regulations for the inspection, testing, repair, replacement, and ongoing maintenance of Private Sewer Laterals. This comment is noted. As described on pages 178 and 179 of the Infill Environmental Checklist (Appendix A to the Draft EIR), the proposed project would include a new sanitary sewer line eight inches in diameter connecting to an existing 12-inch sewer main under Allston Way. In addition, the proposed project would be required to comply with the City of Berkeley’s Private Sewer Lateral Ordinance (City of Berkeley Municipal Code Chapter 17.24). Similar to the EBMUD’s ordinance, the City of Berkeley’s ordinance would also require the proposed project to upgrade or verify the condition of private sewer laterals in order to obtain a compliance certificate prior to issuance of a building permit.
November 24, 2014

Aaron Sage, Senior Planner
Planning and Development Department
Land Use Planning Division
2120 Milvia Street
Berkeley, California 94704

Re: Draft Environmental Impact Report on 2211 Harold Way Mixed-Use Project

Dear Mr. Sage:

The Berkeley Architectural Heritage Association (BAHA) is deeply concerned about the potential effects of the Harold Way project. This huge development would be on one of Berkeley's most important historic sites. Environmental review must rigorously assess the project's potential impacts and describe truly effective mitigation measures and project alternatives that would eliminate or meaningfully lessen them. But instead, the Draft Environmental Impact Report is in many ways inadequate and on some key matters appears evasive.

Misreading of the Downtown Area Plan's Intent Regarding This Site

It is vital to dispel some people's apparent tacit, but quite false, notion that this site's owner is entitled to have on it a massive 120- to 180-foot-high building. Unfortunately the Draft EIR abets that notion, especially in section 1.3's paragraph at the top of page 1-5 with its implication that such intensive development on "the project site" is "within the DAP vision."

But although the DAP (Downtown Area Plan) and the C-DMU zoning district do provide for constructing a small number of 120-foot or 180-foot buildings within the Core Area, it does not follow that such a building would necessarily be acceptable on any particular site—especially on a site that, like this one, is officially landmarked. One of the DAP's most basic concerns is preserving historic resources. Policy HD-1.1 states, "Preserve historic buildings and sites of Downtown, and provide [please note:] where appropriate for their adaptive reuse and/or intensification." The meaning of "where appropriate" is clarified especially by that policy's important action "b," which is quoted within this letter's next portion. The C-DMU zone's basic height limit is 60 feet, and going higher than that is subject to getting a special Use Permit and meeting the prescribed permit criteria. Also of course pertinent are the controls in the Landmarks Preservation Ordinance.

This particular site's very special nature even calls into question using just a so-called "infill EIR" for the project.

Failure to Point Out the Project's Excessive Scale

The Draft EIR basically ignores the elephant in the room: the fact that on this very special and sensitive landmarked property the proposed 12- to 18-story development would be grossly out of scale.

The ignoring especially discredits the rationale and conclusions on section 4.1.2.b's pages 4.1-29 through 4.1-33 and the Executive Summary's page ES-6 that with the recommended mitigation measures, "Impact CR-2" would be "less than significant." One specious passage involves page 4.1-30's citing of the present 173-foot Chamber of
Commerce Building and 180-foot Great Western Building, both of which are up on Center Street, as somehow justifying construction of a 180-foot tower on the project site.

The project’s hugely disproportionate construction would violate the call by the Downtown Area Plan, and the Secretary of the Interior’s Standards, for the scale of additions to historic buildings to be compatible with them. DAP Policy HD-1.1’s action “b” says:

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

The Draft EIR’s relevant section 4.1.1.e fails to mention—but should quote—DAP Policy HD-1.1 and its action “b.”

Within the Secretary’s Standards for Rehabilitation, standard 9 calls for doing this:

New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the [please note:] massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

In basically dismissing the obvious impact of excessive scale, the EIR preparers may implicitly have presumed that under CEQA Guidelines Section 15183.3 (“Streamlining for Infill Projects”) this type of impact cannot or need not be seriously discussed. But even if that Guidelines section warrants doing an infill EIR for this project, the EIR preparers seem to have erroneously read way too much exemption into it.

Failure to Consider a Smaller-Scale Alternative

Page 5-38 of section 5.4 and page ES-4 of the Executive Summary do rightly conclude that of the two development options posed in Chapter 5, the so-called Preservation Alternative is the “environmentally superior” one. It would retain the 1926 addition’s facades (while allowing for sensitive storefront insertions within their lower reaches), and new upper floors would be set back behind them.

But Chapter 5 and the Executive Summary’s pages ES-3 and ES-4 fail to describe and assess any development alternative in which the scale of new construction or a major portion thereof would be considerably smaller than in the proposed development itself. The chapter’s Preservation Alternative and Contextual Design Alternative would both involve high-rise additions almost as massive as in the proposed development itself. Thus the evident claim on section 5.2’s page 5-2 that the Preservation Alternative would meet DAP Policy HD-1.1 and its key action “b” is quite unwarranted. Similarly unjustified is the claim on section 5.3.1’s page 5-23 that the Contextual Design Alternative would reduce Impact CR-2 to a less than significant level.

The Draft EIR tries to rationalize its lack of a much-reduced-scale option by quoting (on pages 1-6 and 5-1) from CEQA Guidelines Section 15183.3(e) the sentence that says, “The analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities.” But even if doing an infill EIR is appropriate for this project, the EIR preparers have read too much into that quoted sentence. The wording “locations, densities, or building intensities” sounds pertinent to relatively general land use planning concerns rather than to historic-resource questions about the appropriateness of specific additions within a particular Landmarked property, which by its very nature constitutes a special situation. Furthermore the quoted sentence says “need not” rather than “shall not”—and for this particular project the EIR in reality should discuss one or more seriously reduced-scale options.

For relevant comparison, the recently issued “infill” Draft EIR for a big project at 2539 Telegraph Avenue discusses an alternative wherein the construction would be only half as high as the applicant there proposes.

In the EIR for the 2211 Harold Way project, an especially relevant alternative to consider would be one in which the project’s northern half would not be taller than 60 feet. This could especially help to reduce impact on historic views.
Failure to Duly Assess Impact on the Campanile Way Vista

The Draft EIR dismally fails to assess the project's true potential impact on the historic vista from the Campanile steps and Campanile Way toward San Francisco Bay, Alcatraz Island, and the Golden Gate. The pertinent rationale and conclusions on section 4.1.2.b's pages 4.1-33 through 4.1-40 and the Executive Summary's pages ES-7 and ES-8 are very deficient. So are the pertinent conclusions within sections 5.2.1 and 5.3.1 about, respectively, the Preservation Alternative and the Contextual Design Alternative. Especially preposterous is page 4.1-34's argument that impact would be less than significant "[b]ecause[1] . . . [t]he change [resulting from the project] would not materially impair Campanile Way or the Classical Core of the UC Berkeley campus such that they would no longer be eligible for listing as historic resources[1]." Also obviously specious is the same page's apparently independent claim that impact would be less than significant because "[t]he project would not involve physical demolition, destruction, relocation, or alteration of Campanile Way [itself] or its immediate surroundings."

Section 4.1.2.b's analysis is unduly dependent on the present situation wherein the vista has been narrowed by very overgrown shrubs and trees—vegetation that may well get greatly trimmed back or die off.

Though the Draft EIR admits the project would intrude into even the currently vegetation-narrowed vista, it wrongly dismisses impact as less than significant because (quoting from page 4.1-40) "[t]he project would not entirely[!] block the existing view of the Golden Gate Bridge and the project would block only a minor portion of the existing view from the middle of the top stair immediately west of the Campanile . . . ." But especially because flanking construction and/or vegetation have already made the vista narrower than it once was, it has become all the more important to protect even "minor" parts of it. The historic Campanile Way axis was meant to give a generous view of the Bay, Alcatraz Island, and the Golden Gate.

Failure to Consider Blocking of Westward Views from the Hotel

The project would utterly block the sweeping views toward the Bay, San Francisco, and Marin County that many west-facing guest rooms of the Shattuck Hotel now provide. Yet the Draft EIR says nothing at all about this impact on the historic hotel.

Need to Say and Do More About Seismic Retrofit

The recent 25th anniversary of the Loma Prieta quake should remind us that the Hayward Fault could at any time wreak much greater havoc in Downtown Berkeley.

Section 2.5 on page 2-57 states one of the project's objectives as "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." Section 2.4 provides on pages 2-18 and 2-49 some information about this work—which evidently would be done only beneath the hotel's southern part, near the Kittredge/Shattuck Avenue intersection. But the Draft EIR fails to adequately discuss whether and/or how that work would or could be coordinated with other seismic retrofitting that has been done, or in future should be done, within the hotel itself and/or within street-level commercial spaces near the Allston/Shattuck Avenue intersection. The EIR should do all this.

And especially considering the project's huge impact in general on the overall designated landmark, the EIR should include a mitigation measure whereby such further retrofitting would be assisted financially.

Need to Redesign Facades' Big Glassy Expanses

Section 4.1.2.b's page 4.1-31 rightly concludes that the glazed aluminum window wall systems proposed for large facade expanses would be inconsistent with the Secretary of the Interior's Standards and with several of the Downtown Berkeley Design Guidelines—a finding that is echoed on the Executive Summary's page ES-6. Accordingly pages 4.1-32 and ES-7 present Mitigation Measure CR-2(c) whereby the void-to-wall proportion and pattern of those facade expanses would be modified to more closely match what is now seen on the Shattuck Hotel and some nearby other landmarks. Though of course far from making up for the huge project's excessive scale and other impacts, this particular measure could provide some welcome relief.

Failure to Duly Consider Wind Impacts

The Draft EIR and its pertinent Appendix F fail to identify any wind effects as significant. The appendix does not convincingly take into account how downdrafts produced by the 18-story tower (which would be on the site's
southwest part and thus especially pertinent regarding south storm winds and west prevailing winds) could cause serious wind turbulence in the proposed plaza at the tower's foot, and along adjoining streets. Though the appendix admits that the development's own rooftop spaces—at least much of which would be required open space—could get quite windy, it then very questionably dismisses this as irrelevant because these spaces would be "private."

**Failure to Consider the Present Theater's Significance**

The Draft EIR fails to recognize the existing Shattuck Cinemas as a significant cultural resource. For many years this theater has played a vital role within Downtown Berkeley's historic function as the East Bay's prime locale for moviegoing. Berkeley has already lost several of its movie houses, and the Shattuck represents half of Downtown's now-remaining screens. The Shattuck Cinemas' array of 10 screening rooms of diverse sizes has given it unique flexibility for the programming of both mainstream and offbeat films. And some of the rooms are quite interestingly ornamented.

Though section 2.5 on page 2-57 glibly dismisses the venue as "aging deficient theater boxes," in fact just five years ago it was notably rehabilitated.

**Need to Keep the Ornamental Ceiling**

On section 4.1.2.b's page 4.1-28 and the Executive Summary's pages ES-5 and ES-6, proposed Mitigation Measure CR-1(b) includes letting salvage people remove "the ceiling plasterwork in the entry arcade." That would be a serious mistake. The handsome plastered ceiling is a valuable reminder of the Hink's store's glory years, and in subsequent decades it has served well to enhance the moviegoing experience. The ceiling's significance has been recognized by the consultant Architectural Resources Group. In the set of DPR forms that was done by that firm and is included in one of the Draft EIR's appendices, page 8 identifies "Soffit plasterwork at former Hink's entrance arcade" as an interior feature that is "Character-defining." It should be kept in place.

The ornamental ceiling's now-visible extent goes beyond the present theater entranceway, and it is likely that other portions still exist above subsequently installed dropped ceilings. The now-hidden portions should when feasible be made again prominently visible.

**Inconsistent Descriptions of the Project's Extent and Required Approvals**

A sentence on the Executive Summary's page ES-1 says the project site is a "34,800 square-foot (0.8 acre), generally 'L' shaped portion" of the "1.63-acre larger property forming one city block." Section 2.2, on page 2-1, also describes the project site as measuring 34,800 square feet (0.8 acre). But the ratio implied thereby between the project site and the overall block doesn't seem to accurately match the proportion implied graphically by Figure 2-2. Another evident inconsistency involves section 2.3.1's Table 2-2's describing "Site Size" as "38,400 square feet (0.88 acre)."

Further confusing is how page ES-1's above-cited sentence says, "... and also [sic] includes a portion of the basement [sic] level of the adjacent Shattuck Hotel Plaza building." Section 2.3.1 rather similarly says, on page 2-5, that "[the structural area affected by the project also extends to a portion of the basement [sic] level below the street retail and Shattuck Hotel building ...]." (And page 103 of Appendix A's Infill Environmental Checklist speaks of structural work that would affect "below-grade [sic] portions of the Shattuck Plaza Hotel and [sic] its earlier additions."). But in contrast section 3.2.2 says, on page 2-6, that "[b]elow the hotel rooms along Shattuck Avenue is a row of [street-level] commercial storefronts that are part of the project site ..." And section 2.4 says, on page 2-18, that the project includes "[s]eismic reinforcement of the basement and ground level [sic] of the existing Shattuck Avenue retail spaces ... located below the Shattuck Hotel."

Comparably inconsistent are various statements about the proposed extent of demolition. The first paragraph of the Executive Summary's "Project Description," on page ES-2, says that "... [only?] interior [sic] portions of the 1913 addition ... would be removed or altered ... including some alteration of the underground areas." Section 2.4 speaks, on page 2-48, of removing or altering "[only?] interior portions of the 1913 addition." Section 2.3.1 even appears to say, on page 2-1, that only the 1959 and 1926 additions would be demolished. But as a comparison of Figure 2-3 with Figures 2-12 through 2-15 and 2-25 through 2-28 reveals, the project would in fact totally demolish much of the 1913 addition's part along Kittredge Street.

Partly related are problems within section 2.6's list, on page 2-58, of needed approvals and the Executive Summary's similar list on pages ES-2 and ES-3. In each case the next-to-last bulleted item wrongly implies that the
“Use permit to demolish” would be needed just regarding the “1959 Hink’s Building.” And in page 2-58’s list the very last bulleted item is so worded as to wrongly suggest that (a) the 1926 addition would be altered rather than demolished and (b) no part of the 1913 addition would get demolished.

Wrong Description of Status Re the National and California Registers

Section 4.1.1.g says on page 4.1-20 that because the Shattuck Hotel “appears” to meet pertinent significance criteria, a consultant has assigned it a California Historical Resource Code of 3S, “which indicates that the property was found [sic] eligible for both the National and California Registers through survey evaluation.” That language incorrectly defines 3S status itself, which instead means “Appears eligible for NR as an individual property through survey evaluation.” More importantly, the Draft EIR totally fails to mention that the Office of Historic Preservation’s Historic Properties Directory now lists the Shattuck Hotel with California Historical Resource Status Code 2S2—which means; “Individual property determined eligible for NR by a consensus through Section 106 process. Listed in CR.” This determination was made during consideration of proposed bus rapid transit.

Numerous Other Problems

In the Draft EIR there are many other misstatements, inconsistencies, or omissions among which are those cited below.

- Table of Contents: Though page iv lists Appendices A through C, it fails to mention Appendices D through H.
- Section 1.1: In Table 1-2’s summary of the Zoning Adjustments Board’s comments, the language “state’s requirements of particular open space per resident” may be incorrect. Should this instead be “City’s requirements for open space per unit”?
- Section 2.3.1 and the Executive Summary: Page 2-5 incorrectly describes the 1959 addition as having “a partial third story.” The Executive Summary makes the same mistake on page ES-1.
- Section 2.3.2: The caption of Figure 2-4’s Photo 1 wrongly identifies as “Dharma College” the building now occupied by the Mangalam Centers. And the caption of Figure 2-8’s Photo 9 mistakenly says the view shows Shattuck Avenue’s “south side” rather than the west side.
- Sections 2.3.2 and 3.2 and the Executive Summary: Language on pages 2-6, 3-1, and ES-1 appears to wrongly imply that the designated Landmark includes only the hotel itself. The designation includes the entire property: the entire block.
- Section 2.3.3: Something is missing within page 2-13’s language “generally range from a Floor Area Ratio up to 6:1.”
- Section 2.3.3: Pages 2-16 and 2-17 fail to cite the pertinent guidelines to be found under the heading “Areas Where Historic Resources Are Concentrated.”
- Section 2.4 and the Executive Summary: A sentence near the bottom of page 2-17 mistakenly says the project’s building step backs would occur primarily just above the fifth and “13th”—rather than 12th—floors. The Executive Summary’s page ES-2 makes the same mistake.
- Section 2.4: There is inconsistency between page 2-18’s fourth bullet point’s description of the project’s residential open space and page 2-47’s description of such space.
- Section 2.6 and the Executive Summary: Page 2-58 wrongly says that a Use Permit is required if building height exceeds “75 feet,” instead of the actual 60 feet. The Executive Summary’s page ES-3 makes the same mistake.
- Sections 3.3 and 4.1.2.c: Table 3-1 wrongly counts the project at 2201 Dwight Way, which site has never been part of the Downtown Area Plan study area; and the table confusingly includes hotel rooms within its “Dwelling Units” column and total. The same problems affect the figures in page 4.1-44’s last paragraph.
- Section 4.1.1.b: About three-quarters of the way down page 4.1-2, right after “1980” there is an extraneous “7” that may have been meant to refer to some now-missing footnote.
- Section 4.1.1.b: Pages 4.1-2 and 4.1-3 misspell architect Plachek’s name.

- Section 4.1.1.c: In page 4.1-3’s last paragraph “northeast corner” should instead be “southwest corner.”

- Section 4.1.1.c: In the middle of page 4.1-7 “Dharma Institute” should instead be “Dharma College.”

- Section 4.1.1.c: About two-thirds of the way down page 4.1-7, right after “Harold Way” there is an extraneous “1” that may have been meant to refer to a now-missing footnote.

- Section 4.1.1.e: The text that starts near the bottom of page 4.1-14 and says “… geographic subareas [sic], such as the area covered by the [whole] DAP” makes no sense.

- Section 4.1.1.e: Page 4.1-15 alludes to but fails to quote the obviously relevant guidelines for “Subareas Where Historic Resources Are Concentrated.”

- Section 4.1.1.f: Page 4.1-18 wrongly describes 1930s construction as being from the “Beaux-Arts Era.”

- Section 4.1.1.g: There appears to be inconsistency between (a) pages 4.1-18 and 4.1-21 and (b) page 4.1-19 as to whether the 1926 addition as such meets NRHP/CRHR Criterion C/3. But in any case the 1926 addition should not be judged in isolation. It is an integral and important part of the overall landmark. Page 4.1-19’s calling it “profoundly subordinate” is unjustified and seems biased.

- Section 4.1.1.g: Near the middle of page 4.1-21 the word “Designation” should instead be “application,” and “nomination” (within both sentences where it appears) should also be changed to “application.”

- Section 4.1.1.g: In page 4.1-21’s last paragraph “Milvia Street on the east” should instead be “Milvia Street on the west”—and “two landmark districts” should be changed to “one historic district.” On page 4.1-22 “Berkeley High School Historic District” (which is entirely west of Milvia) should be deleted, and the middle paragraph’s “two historic districts” should instead be “historic district.”

- Section 4.1.1.g: Despite what page 4.1-22’s middle paragraph says, the Morse Block is not listed in the National Register. Instead it has been determined (via the Section 106 process for proposed bus rapid transit) to be eligible for the National Register. It accordingly is listed in the California Register.

- Section 4.1.1.g: There are several problems with page 4.1-22’s bulleted list that is prefaced by “The following 10 properties . . . .” A property does not get found “through . . . survey evaluation” to “be” eligible for the National Register; instead it gets found to appear thus eligible. Another problem is that of the 10 previously surveyed properties, five of them (2150, 2177, 2225, 2270, and 2274 Shattuck Avenue) have subsequently been, via Section 106 review, determined eligible for the National Register. Still another problem is that the list of “10” properties should also include at least one (2121 Allston Way), and maybe all, of the four supposedly “additional” properties in the bulleted list that starts near the bottom of the same page. A 1977-1979 survey found all four to appear eligible for the National Register—although 2168 Shattuck and at least part of 2281 Shattuck have later been determined, via Section 106 review, to be ineligible for the National Register.

- Section 4.1.1.h: In the middle of page 4.1-25, “Policy HD 1-1a” should instead be “Policy HD-1.1’s action ‘b’.”

- Section 4.1.2.b and the Executive Summary: The descriptions of “Impact CR-1” on pages 4.1-26, 4.1-27, and ES-4 acknowledge that the “landmark designation [sic]” includes the 1913 and 1926 additions. But by omission this could be read as meaning the 1959 addition is not even part of the designated landmark site—which in fact it is within.

- Section 4.1.2.b: Near the middle of page 4.1-27 the language “demolition of the Shattuck Hotel” obviously needs fixing.

- Section 4.1.2.b and the Executive Summary: In describing Impact CR-2, pages 4.1-28 and 4.1-29 fail to acknowledge that the project would be inconsistent with the Downtown Area Plan. The Executive Summary’s page ES-6 similarly fails.

- Section 5.2: Page 5-3 mistakenly says the Preservation Alternative would have a plaza along the “west,” rather than north, half of the Harold Way frontage.
• Section 5.2.1: On page 5-18 the third paragraph’s description of building heights per the Preservation Alternative partially conflicts with the fourth paragraph’s description of such heights—and with section 5-2’s Figures 5-2 and 5-4 through 5-9.

• Section 5.4 and the Executive Summary: Page 5-38 says the “Preservation Alternative” would involve “retaining the historic structures on site”; but that claim is exaggerated because although this alternative would retain their facades (and maybe some fabric for a short distance behind those), it would involve destroying most of the 1926 addition’s horizontal extent and some of the 1913 addition’s. Similarly problematic is page ES-4’s first paragraph.

Sincerely,

John McBride,
President
Response to Comments

Letter 4

COMMENTER: John McBride, President, Berkeley Architectural Heritage Association

DATE: November 24, 2014

RESPONSE:

Response 4.1

The commenter states an opinion that language in the Draft EIR implies that, pursuant to the DAP, the project applicant is entitled to build a 120- to 180-foot building on the project site. The commenter supports this assertion by referring to the discussion in the Infill Environmental Checklist (Appendix A to the Draft EIR) that states that “potential development on the project site was within the DAP vision and is included in all aspects of the DAP EIR.” The quoted statement is accurate in that the DAP EIR analyzes a tall (225-foot) building on the project site and that the DAP includes provisions to allow construction of 180-foot tall buildings within the “Core” area of the Downtown, if approved through the City’s discretionary review process and under the policies and regulations applicable in the DAP area. As evident in the discretionary review process – which includes preparation and public review of the Draft EIR currently underway since initiated by the project application, such development is not already entitled or otherwise allowed by right.

Response 4.2

The commenter questions whether an Infill EIR pursuant to CEQA Guidelines Section 15183.3 is appropriate for the project, but does not provide information to challenge the City’s determination to that affect. Please see Section 1.0, Introduction, for a discussion of the applicability of the Infill EIR provisions of CEQA.

Response 4.3

The commenter states an opinion that the Draft EIR fails to acknowledge that the proposed project is “out of scale” for the “very special and sensitive landmarked” project site. The commenter suggests that this assertion negates the conclusion that Impact CR-2 would be reduced to less than significant with implementation of mitigation measures. The commenter also opines that the “disproportionate” size of the proposed project would be inconsistent with DAP Policy HD 1.1 Section (b) and standard 9 of the Secretary of the Interior’s Standards for Rehabilitation, for the scale of additions to historic buildings to be compatible. The extent of removals and project description and objectives define this project as new construction adjacent to historic resources, rather than as an addition. See Topical Response A, Project Visual and Historic Compatibility Impacts, for responses to these comments. As discussed in the Infill Environmental Checklist (Appendix A of the Draft EIR) on pages 142 and 143, the proposed project would be potentially inconsistent with DAP policies LU 4.2 and HD 1.1, which relate to preservation of and compatibility with historic resources. Rather than dismissing impacts related to scale as asserted by the commenter, such impacts are discussed in the Infill Environmental Checklist under items I. Aesthetics and X. Land Use and Planning, and in Section
4.1, Cultural Resources, as well as in Topical Response A, Project Visual and Historic Compatibility Impacts above.

The commenter states an opinion that discussion in the Draft EIR of the two nearby buildings of similar height to the project does not “justify” the proposed project. The discussion referred to was not intended to justify the project, but rather to provide important context, specifically that the proposed building would be the third building in the Downtown of the proposed height, rather than introducing a new scale to the area.

The commenter also states an opinion that Section 4.1.1.e of the Draft EIR should quote DAP Policy HD-1.1, Section (b). Section (b) of Policy HD-1.1 is quoted in Section 5.2, Preservation Alternative, of the Draft EIR, as well as in the Infill Environmental Checklist (Appendix A of the Draft EIR). In addition, the following text has been added to Page 4.1-16 of the EIR after the second paragraph on that page:

Policy HD-1.1 in the DAP calls on the City to “Preserve historic buildings and sites of Downtown, and provide where appropriate for their adaptive reuse and/or intensification,” and states that “At a minimum, historic facades should be maintained and/or rehabilitated and the scale and character of additions must be compatible with the historic building.”

Response 4.4

The commenter states an opinion that the Draft EIR fails to consider an alternative where the scale of new construction or a major portion thereof would be considerably smaller than the proposed project. Please see topical responses A, Project Visual and Historic Compatibility Impacts, and C, Adequacy of the Draft EIR Alternatives, for responses to this comment.

Response 4.5

The commenter states an opinion that the Preservation Alternative would not meet Section (b) of Policy HD-1.1 and objects to the conclusion that the Contextual Design Alternative would reduce Impact CR-2 to a less than significant level. Section (b) of Policy HD-1.1 calls for evaluating new projects affecting historic buildings under the Secretary of the Interior’s Standards. Such an evaluation is included in the Draft EIR in Section 4.1, Cultural Resources, as well as the HRTR (Appendix B to the Draft EIR). Section (b) also states that “historic facades should be maintained and/or rehabilitated and the scale and character of additions must be compatible with the historic building.” As discussed in Section 4.1, Cultural Resources, as well as the HRTR (Appendix B to the Draft EIR) and in Topical Response A, Project Visual and Historic Compatibility Impacts, the scale of the proposed building alone would not result in significant compatibility impacts with incorporation of the identified mitigation measures. Please also see Topical Response C, Adequacy of the Draft EIR Alternatives. The Preservation Alternative would maintain and/or rehabilitate historic facades. The Contextual Design Alternative would reduce Impact CR-2 to a less than significant level because it incorporates the mitigation strategies identified in the Draft EIR to address the compatibility impact.
Response 4.6

The commenter opines that the CEQA Guidelines limitation on studying reduced density/intensity alternatives should not apply to potentially significant historic resources impacts. Please note that the Guidelines (see Section 15183.3) do not qualify the limitation based on impact or resource type. Regardless, as discussed in Section 4.1 Cultural Resources, impacts related to scale would be less than significant with the proposed mitigation, and therefore an alternative including a reduced scale was not necessary. EIR alternatives should be designed to “avoid or substantially lessen any of the significant effects of the project” (Guidelines Section 15126.6), and the impact related to scale was determined to be mitigable to less than significant levels.

In order to increase the feasibility of project alternatives, the City decided to craft two alternatives that approached the unit counts of the proposed project as closely as possible (although they ended up slightly below them), while mitigating identified significant impacts associated with the proposed project, i.e. those related to demolition or alteration of historic structures. This was part of the larger effort to develop project alternatives that would not only avoid or mitigate significant impacts, but also be capable of successful implementation.

The commenter goes on to state an opinion that the Draft EIR should have included a smaller project regardless of the CEQA Guidelines, and refers to a Draft EIR for an infill project at 2539 Telegraph Avenue, which considered a reduced scale alternative. This comment is noted. It should also be noted that the project cited by the commenter is located in a neighborhood of mostly one- to three-story buildings, rather than the denser context of Downtown Berkeley which also has taller buildings.

Response 4.7

The commenter states an opinion that the EIR should consider an alternative that restricts the project’s northern half to 60 feet, which would also reduce impacts to the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment. In brief, the impact on this view is less than significant.

Response 4.8

The commenter states an opinion that the Draft EIR fails to assess the proposed project’s impacts on views from Campanile Way, and refers to several discussions in the Draft EIR that the commenter describes as “deficient,” “preposterous,” “specious” and so on. However, the commenter does not provide specific information or analysis to challenge the Draft EIR analysis or conclusions regarding view impacts. Please also see Topical Response B, Impacts to the Westward View from Campanile Way, for additional responses and information on this topic.

The commenter also states disagreement with the Draft EIR’s use of the existing scenario, with campus trees forming part of the view from Campanile Way, as a baseline for the impact analysis. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.
Finally, the commenter states disagreement with the Draft EIR’s conclusion that view impacts would be less than significant, particularly the aspect of that conclusion that relies on the fact that only part of the view would be obstructed by the proposed project. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment. The commenter also states an opinion that Campanile Way was designed to provide a “generous view” of the Bay, Alcatraz Island and the Golden Gate, but does not provide a basis in the historical plans for the campus or in the Landscape Heritage Plan for this opinion. Therefore, although this opinion is noted, it does not warrant a change to the EIR.

Response 4.9

The commenter notes that the proposed project would block westerly views from the west-facing rooms of the Shattuck Hotel and that this blockage represents an impact to the historic hotel. As stated in Section 6.3 of the HRTR in Appendix B,

\[
\text{A character-defining feature is an aspect of a building’s design, construction, or detail that is representative of the building’s function, type, or architectural style. Generally, character-defining features include specific building systems, architectural ornament, construction details, massing, materials, craftsmanship, site characteristics and landscaping within the period of significance.}
\]

The westerly views referenced by the commenter were not identified as a character-defining feature of the Shattuck Hotel. As a result, blocking these views does not constitute a significant impact to historic resources. Furthermore, although this comment pertains to aesthetics, as noted in Topical Response A, the aesthetic impacts of this project cannot be considered significant impacts under CEQA. Nevertheless, the commenter’s concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.

Response 4.10

The commenter opines that the Draft EIR fails to adequately discuss whether the proposed project’s seismic retrofits would, or feasibly could, be coordinated with other seismic retrofitting that has been completed within Shattuck Hotel or within street-level commercial spaces near the Allston/Shattuck Avenue intersection. The commenter also states an opinion that due to the proposed project’s impacts on the designated landmark, the EIR should include a mitigation measure requiring financial assistance for further retrofitting. As discussed in Section 2.0, Project Description, of the Draft EIR, the proposed project would seismically strengthen the area affected by new construction. As discussed in Item VI. of the Infill Environmental Checklist (Appendix A of the Draft EIR), the proposed project’s foundation system would be integrated with and would complement the existing adjacent Shattuck Hotel building’s foundation system where it may come in contact, and would not adversely affect the Shattuck Hotel’s seismic readiness. The City of Berkeley requires all projects to submit a geotechnical report in order to receive a building permit from the City, and to comply with the recommendations of the report. Compliance with this uniformly applicable standard condition would reduce the project’s potential impacts related to seismic shaking to a level of less than significant level. Additional mitigation measures requiring the proposed project to financially assist further retrofits are not warranted because the proposed project’s impacts related to seismic shaking were determined to be less than significant. It should be noted that the project would include seismic
reinforcement of the basement and ground levels of the existing Shattuck Avenue retail spaces where they would be affected by the project.

Response 4.11

The commenter states support for Mitigation Measure CR-2(c). This comment does not conflict with or challenge the analysis and conclusions of the Draft EIR; however, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 4.12

The commenter states an opinion that the discussion of wind impacts in the Infill Environmental Checklist does not address potential wind impacts at street level. The commenter does not introduce information or analysis to challenge the discussion or its conclusions; therefore, a specific response is not possible. Potential wind impacts, including at street level, are discussed on pages 139-142 of the Infill Environmental Checklist (Appendix A to the Draft EIR). Appendix F to the Infill Environmental Checklist is a wind consultant’s analysis of potential wind and comfort impacts of the proposed development. This analysis concludes that wind impacts, including at street level, would be less than significant. The commenter also notes that wind impacts on proposed rooftop decks would be less than significant, which is correct. The commenter implies that the Infill Environmental Checklist concludes that rooftop wind impacts would be “irrelevant;” on the contrary, the checklist and wind analysis address and discuss these potential impacts to private project spaces, concluding that they would be less than significant.

Response 4.13

The commenter opines that the Draft EIR fails to acknowledge the Shattuck Cinemas as a cultural resource. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. The commenter states an opinion that the Draft EIR’s characterization of the venue as “aging deficient theater boxes” is inaccurate, as the theater was rehabilitated five years ago. This comment is noted, and the City agrees. The language referred to is not the City’s but rather is directly from the project objectives provided by the applicant. Nevertheless, the words “aging deficient” have been deleted and replaced with “the” in the Final EIR where they appear on pages 2-57, 5-17 and 5-22.

Response 4.14

The commenter states that the ornamental ceiling was acknowledged as “character defining” in the HRTR (Appendix B of the Draft EIR) and requests that it be kept in place. The commenter also suggests that the ornamental ceiling is likely present in areas not currently visible and that they should be exposed where feasible. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 4.15

The commenter states an opinion that Figure 2-2 does not reflect the ratio of sizes between the project site (0.8 acres) and the larger property of which it is a part (1.63 acres). This is because
the project site in the figure also takes in part of the Shattuck Hotel building, as some structural changes below that building are proposed, as discussed under Site Preparation and Construction in Section 2.0, Project Description. This area is excluded from the basic site area number cited as 38,400 square feet.

Response 4.16

The commenter states an opinion that section 2.3.1’s Table 2-2 inaccurately describes the project site size. The project size is approximately 38,400 square feet and 0.88 acres.

In response to this comment, Page ES-1 of the Draft EIR is revised as follows:

The project site itself – the primary area of proposed new development – is a 38,400 square-foot (0.88-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza building.

In response to this comment, Page 2-1 of the Draft EIR and Page 1 of the Infill Environmental Checklist (Appendix A of the Draft EIR) are revised as follows:

The project site itself – the primary area of proposed new development – is a 38,400 square-foot (0.88-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza (commonly referred to as the Shattuck Hotel) building beneath its existing retail space and movie theater entrance.

Response 4.17

The commenter states an opinion that the Draft EIR is confusing regarding its description of the portion of the Shattuck Hotel Plaza building that would be affected by the proposed project and refers to several sentences in the Draft EIR. Accordingly, the following change has been made on Page 2-6:

Below the hotel rooms along Shattuck Avenue is a row of commercial storefronts that are part of the project site, as well as the entrance to the Shattuck Cinemas, a 10-screen movie theater.

Response 4.18

The commenter states an opinion that the Draft EIR is inconsistent in its description of the extent of demolition proposed by the project, particularly in reference to the 1913 addition. The commenter also opines that based on Figures 2-3, 2-12 through 2-15, and 2-25 through 2-28, the proposed project would “totally” demolish “much” of the 1913 addition and that this is inconsistent with the in-text descriptions of the demolition extent. The commenter does not specify how the quoted language is inconsistent. The commenter is correct that a portion of the 1913 addition – interior and exterior - would be removed. No changes to the EIR are warranted.
Response 4.19

The commenter states an opinion that the list of required approvals in Section 2.6 (Page 2-58), and the similar list on pages ES-2 and ES-3, wrongly implies that the “use permit to demolish” would only be needed for the 1959 Hink’s Building. The commenter also opines that the last bullet in the list in Section 2.6 suggests incorrectly that the 1926 addition would be altered rather than demolished and that no part of the 1913 addition would be demolished. However, the word “demolish” on Page 2-58 refers to the definition of “demolition” in the City’s Zoning Ordinance, which is based on the percentage of a building’s exterior walls and roof that is removed. The 1959 Hink’s Building would be entirely removed from the site, and therefore “demolished” under the Zoning Ordinance, while the portions of the 1913 and 1926 additions to be removed do not meet the Zoning Ordinance definition for the entire Shattuck Hotel building. Therefore, no changes to the Draft EIR are warranted.

Response 4.20

The commenter notes that the Draft EIR incorrectly identifies the Shattuck Hotel’s California Historic Resource Status Code (CHRSC) as 3S (indicating the property was found National Register-eligible through survey evaluation), when, in fact, the property’s CHRSC is 2S2 (indicating the property was determined eligible for the National Register by a consensus through the Section 106 process and is listed in the California Register). This error has been corrected in the HRTR in Appendix B. This correction does not change the analysis that was conducted of project-related impacts to historical resources, as the properties are treated as historical resources for purposes of CEQA.

In response to this comment, Page 4.1-20 of the Draft EIR and Page 24 of the HRTR are revised as follows:

> Because it appears to satisfy NRHP and CRHR significance criteria, Architectural Resources Group has assigned the Shattuck Hotel (built 1910-1926) a California Historical Resource Status Code of 3S2S2, which indicates that the property is listed in the California Register and was found eligible for both the National and California Registers through survey evaluation determined eligible for the National Register by consensus through the Section 106 process.

Response 4.21

The commenter states an opinion that the Table of Contents in the Draft EIR does not include Appendices D through H and that it should. However, the Draft EIR does not have Appendices D through H, as it only includes Appendices A through C. The Infill Environmental Checklist in Appendix A of the Draft EIR includes Appendices A through H, which are listed in the Table of Contents of the Checklist. The Table of Contents has been revised as follows in the Final EIR:

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2 According to Section 23F.04.010 of the City’s Zoning Ordinance, “A building or enclosed structure shall be considered demolished for the purposes of this chapter when, within any continuous 12 month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this Section, destroyed in part means when 50% or more of the enclosing exterior walls and 50% or more of the roof are removed.”

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Appendices

**Appendix A** Notice of Preparation, Responses to Notice of Preparation, Draft Infill Environmental Checklist
- Appendix A Viewshed Location Screening Analysis Worksheet
- Appendix B Air Quality and Greenhouse Gas Emissions Modeling Data
- Appendix C Geotechnical Feasibility Report
- Appendix D Phase I Environmental Site Assessment
- Appendix E Storm Water Discharge Calculations
- Appendix F Wind and Comfort Impact Analysis
- Appendix G Vibration Assessment and Noise Modeling Data
- Appendix H CEQA Guidelines Section 15183.3, Streamlining for Infill Projects

**Appendix B** Historic Resources Technical Report
- Appendix A Historic Photographs and Maps of the Project Site
- Appendix B1 Existing Conditions Photographs of the Project Site
- Appendix B2 Existing Conditions Photographs of Shattuck Avenue Commercial Corridor
- Appendix C Spreadsheet of Parcels within the Project Vicinity
- Appendix D DPR 523A and 523B forms for the Shattuck Hotel
- Appendix E The Secretary of the Interior’s Standards for Rehabilitation
- Appendix F Visual Simulations of Views from Campanile Way, Environmental Vision
- Appendix G Mitigations Identified by Tuan and Robinson Structural Engineers

**Appendix C** Traffic and Parking Study
- Appendix A Traffic Counts
- Appendix B Synchro Reports
- Appendix C PEQI Audit Forms
- Appendix D BEQI Street Surveys
- Appendix E Urbemis Summary Report
- Appendix F Synchro Reports – Mitigation Measures

**Response 4.22**

The commenter asks if the language in Table 1-2 that reads, “state’s requirements of particular open space per resident” is incorrect and should instead read, “City’s requirements for open space per unit.” Table 1-2 is a summary of comments from the Landmarks Preservation Commission and Zoning Adjustments Board Scoping Meetings. Transcripts from these meetings are available in Appendix A of the Draft EIR (or in the case of hard copies of the Draft EIR, transcripts are provided on a CD attached to the inside of the back cover). The controlling regulations regarding open space per unit are the City’s; see Berkeley Municipal Code Section 23E.68.070.D.

**Response 4.23**

The commenter asks if the Executive Summary incorrectly describes the 1959 addition as having “a partial third story” on pages 2-5 and ES-1. The text in these locations is corrected as follows:

Both buildings are two stories in height with a partial third story and a basement level (although the theater rooms occupy the equivalent of two stories of vertical space in what is essentially one level of useable space). The 1926 addition has a small partial third story on its north side that is not visible from street level.
Response 4.24

The commenter notes that the caption of Figure 2-5 wrongly identifies as “Dharma College” the building now occupied by the Mangalam Centers and the caption of Figure 2-8’s Photo 9 mistakenly says the view shows Shattuck Avenue’s south side, when it should be the west side. The building identified in Figure 2-5 is owned by the Head Lama of the Tibetan Nyingmapa Meditation Center and is occupied collectively by the Dharma College, the Tibetan Aid Project, and Mangalam Centers. The caption of Figure 2-8’s Photo 9 has been revised as follows:

The southwest side of Shattuck Avenue, looking northwest from Shattuck Avenue at Allston Way across from the Shattuck Hotel.

Response 4.25

The commenter states an opinion that language on pages 2-6, 3-1, and ES-1 appears to wrongly imply that the designated Landmark includes only the hotel itself. The commenter asserts that the designation includes the entire property and block.

In response to this comment, Page ES-1 of the Draft EIR is revised as follows:

Directly adjacent to the project site and on the same block is the Shattuck Hotel, whose main lobby and entrance are on Allston Way, a City of Berkeley Landmark, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue. The entire block was designated a City of Berkeley Historic Landmark by the Landmarks Preservation Commission in 1987, with the notation that “In style and structure the 1957 wing is virtually a separate building, … and is not contributory to the early 20th century character of the Shattuck Hotel.”

In response to this comment, Page 2-6 of the Draft EIR is revised as follows:

As noted above, directly adjacent to the project site and on the same block is the Shattuck Hotel, a City of Berkeley Landmark, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue. Below the hotel rooms along Shattuck Avenue is a row of commercial storefronts that are part of the project site, as well as the entrance to the Shattuck Cinemas, a 10-screen movie theater. The hotel currently has 199 guest rooms, a restaurant, a bar and meeting rooms. The entire block was designated a City of Berkeley Historic Landmark by the Landmarks Preservation Commission in 1987, with the notation that “In style and structure the 1957 wing is virtually a separate building, … and is not contributory to the early 20th century character of the Shattuck Hotel.”

In response to this comment, Page 3-1 of the Draft EIR is revised as follows:

The Shattuck Hotel, a City of Berkeley Landmark, is located adjacent and to the northeast of the project site and on the same city block. The entire block was
Response 4.26

The commenter notes that the line, “generally range from a Floor Area Ratio up to 6:1” on Page 2-13 appears to be missing words. This sentence has been revised as follows for clarity:

The General Plan also states that building intensity will generally range from a Floor Area Ratio (FAR) up to 6 of less than 1 to an FAR of 6 and that population density will generally range from 88 to 220 persons per net acre; however, the City’s Downtown Area Plan vision for development in the Core Area, discussed further below, supersedes the General Plan’s specific standards for Downtown development intensity.

Response 4.27

The commenter states an opinion that on pages 2-16 and 2-17, the guidelines under the heading “Areas Where Historic Resources Are Concentrated” should be cited. This section was not intended to include an exhaustive list of all Design Guidelines. The heading referenced by the commenter is referenced in the Draft EIR on pages 4.1-15 and 4.1-25.

Response 4.28

The commenter opines that a sentence on Page 2-17 and the Executive Summary on Page ES-2 mistakenly states that the project’s building step backs would occur primarily just above the fifth and the 13th floors, when it should be the 12th floors. The text in both locations has been revised as follows:

Building step backs would occur primarily just above the fifth and 12th floors.

Response 4.29

The commenter states an opinion that there is inconsistency between Page 2-18’s fourth bullet point, which reads, “Residential open space, consisting of 14,535 square feet of shared rooftop terraces and 11,045 square feet of private balconies and decks,” and Page 2-47’s description of open space. These references are not inconsistent; rather, the proposed 18th floor terrace is not included in the total for shared terrace space.

Response 4.30

The commenter states an opinion that pages 2-58 and ES-3 wrongly state that a Use Permit is required if building height exceeds “75 feet,” instead of “60 feet.” This text has been revised as follows:

3. Use Permit to exceed a building height of 75 feet
Response 4.31

The commenter states an opinion that Table 3-1 incorrectly counts the project at 2201 Dwight Way, which is outside the Downtown Area Plan study area, and is confusing in that it includes hotel rooms within its “Dwelling Units” column and total. The commenter notes that this total is also reflected on Page 4.1-44. There is no requirement to limit cumulative development to the DAP area. The hotel rooms were included in the totals to provide a conservative impact analysis.

Response 4.32

The commenter notes that on Page 4.1-2 there is an extraneous “7.” Page 4.1-2 of the Draft EIR is revised as follows:

In 1968, the Shattuck Hotel Management Company purchased the hotel and operated it until 1980.7 Firmateer, Inc. remodeled the hotel in the early 1980s and it became a tourist hotel once again.

Response 4.33

The commenter notes that on pages 4.1-2 and 4.1-3 the name of the architect, Plachek, is misspelled. The texts of Page 4.1-2 of the Draft EIR and Page 8 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

The following year, Whitecotton commissioned architect James Placheck to build an office building at 2060-2074 Allston Way behind the hotel;

The texts of Page 4.1-3 of the Draft EIR and Page 9 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

Expansion finally occurred in 1959, and included demolition of Whitecotton’s 1921 office building designed by James Placheek at the corner of Allston Way and Harold Way.

Response 4.34

The commenter notes that on Page 4.1-3 the reference to “northeast corner” in the last paragraph should be “southwest corner.” The texts of Page 4.1-3 of the Draft EIR and Page 3 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

Built in several stages, the first iteration of the Shattuck Hotel was completed in December 1910 at the northeast-southwest corner of Shattuck Avenue and Allston Way;

Response 4.35

The commenter notes that the reference to “Dharma Institute” on Page 4.1-7 should be “Dharma College.” The texts of Page 4.1-7 of the Draft EIR and Page 5 of the HRTR (Appendix B of the Draft EIR) are revised as follows:
This simple addition was designed for compatibility with both the existing hotel building and with the Armstrong College (now Dharma Institute College) building across Harold Way, which was also designed by Ratcliff and completed in 1923.

Response 4.36

The commenter notes that on Page 4.1-7 there is an extraneous “1.” The text of Page 4.1-7 of the Draft EIR is revised as follows:

The 1926 addition attached to the 1913 hotel addition about halfway between Shattuck Avenue and Harold Way. The exterior location of the addition is evidenced by the shift from double to triple sash industrial windows that occurs at roughly the midpoint of the Kittredge Street elevation, and by a crack in the exterior stucco running the full height of the building in this location.

Response 4.37

The commenter states an opinion that the sentence on 4.1-14 that reads, “The Downtown Berkeley Design Guidelines explicitly allow for supplemental guidelines through other planning documents to provide more specific guidance for geographic subareas, such as the area encompassed by the DAP,” does not make sense. The text of pages 4.1-14 and 4.1-15 of the Draft EIR is revised as follows:

The Downtown Berkeley Design Guidelines explicitly allow for supplemental guidelines through other planning documents to provide more specific guidance for geographic subareas, such as the subareas where historic resources are concentrated encompassed by the DAP.

Response 4.38

The commenter states an opinion that the Draft EIR fails to quote the relevant guidelines for “Subareas Where Historic Resources Are Concentrated” on Page 4.1-15 of Section 4.1.1.e. These portions of the Design Guidelines are quoted below.

_Downtown contains subareas with noticeable concentrations of historic buildings – and the potential for cultivating distinct and memorable places. The Downtown Design Guidelines seek to protect and reinforce the overall character of these subareas. In subareas where historic resources are concentrated, designers should pay special attention to a project’s context, including the character of adjacent properties and subarea as a whole._

COMPATIBILITY

_Within subareas where historic resources are concentrated, building alterations, new construction and public improvements should be designed with particular concern for compatibility with their surroundings, while recognizing the need for continued growth and increased building densities in Downtown’s mixed-use areas._

_Design new construction and alterations to resonate with prevalent architectural characteristics of historic development in the vicinity of the project including but not limited to: materials,_
color, cornice, fenestration patterns, structural bays, roof form, vertical projections, overhanging elements, and motif. New features should not precisely replicate but should generally reinforce patterns associated with historic development.

Build consistently with the existing streetwall, particularly at corner sites. Continue dominant rhythms for structural bays and other vertical elements, and for dominant cornice lines, such as between ground floors and upper stories and at the top of facades that meet a street. Set back upper floors so that dominant roof and cornice lines remain generally consistent as seen from the street.

Substantial building renovations should be accompanied by façade improvements that reinforce a subarea’s historic character. Where prior alterations that have led to the loss of features that once reinforced the historic character of a subarea, restore such features based on historical evidence.

EXTENT & CHARACTER OF SUBAREAS
The Downtown Area Plan recognizes that a subarea with a concentration of historic resources runs along Shattuck Avenue from about University to Durant, as well as some side streets. The Landmarks Preservation Commission (LPC) should evaluate this and other possible subareas to better understand their defining characteristics and their precise extent. To provide explicit guidance for specific subareas, amend these Guidelines after the character and extent of historic subareas are better understood – and consistent with the possibility that such subareas may be designated as historic districts.

Refer to the Downtown Area Plan Draft Environmental Impact Report (Draft EIR) for additional discussion on “character-defining features” in the Downtown Area. Use criteria pertaining to historic district designations in Berkeley’s Landmark Preservation Ordinance (LPO) and applicable guidelines in the National Register Bulletin “How to Apply the National Register Criteria for Evaluation.

Response 4.39

The commenter states that the description on Page 4.1-18 of 1930s construction being from the “Beaux-Arts Era” is incorrect. The texts of Page 4.1-18 of the Draft EIR and Page 33 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

Other notable developments from the Beaux-Arts Era includes the completion of the Golden Gate Bridge in 1937, and extensive construction in downtown Berkeley, a portion of which was visible from Campanile Way (e.g., the Berkeley Community Theater located on the Berkeley High School campus).

Response 4.40

The commenter states an opinion that there is inconsistency between pages (a) 4.1-18 and 4.1-21 and (b) Page 4.1-19 as to whether the 1926 addition meets NRHP/CRHR Criterion C/3. The commenter opines that the 1926 addition should not be judged in isolation and that the description of it as being “profoundly subordinate” on Page 4.1-19 is “unjustified” and “biased.” Language in the Draft EIR has been revised to clarify that it is the report preparer’s
finding that the 1926 addition should not be considered a contributor to the Shattuck Hotel’s significance under Criterion C/3.

The texts of Page 4.1-18 of the Draft EIR and Page 22 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

The original Shattuck Hotel and 1912-1913 additions property also satisfies NRHP/CRHR Criterion C/3 at the local level of significance as a distinctive example of the Mission Revival style in Berkeley’s downtown, and for its association with master architect Benjamin Geer McDougall.

The texts of Page 4.1-19 of the Draft EIR and Page 24 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

The addition is modest in design and detail, is profoundly subordinate to the pre-existing Shattuck Hotel buildings, and does not appear to be significant as a notable example of Ratcliff’s work.

Response 4.41

The commenter states an opinion that references to “designation” and “nomination” on Page 4.1-21 are incorrect. The texts of Page 4.1-21 of the Draft EIR and Page 21 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

According to the Notice of Decision, the designation boundary parcel where the landmark is located includes the 1926 addition and the 1959 building; however, separate statements in the Landmark application Designation itself appear to exclude the 1959 building from the property’s significance. According to the Landmark nomination application form:

Owners contemplate closing off the interior connection of the [1959] building from the rest of the store and selling it as a separate parcel sometime in the future: they would like it understood that in that case it would not become an independent landmark or remain included within a landmark designation.

Section 11 of the nomination application form states:

Response 4.42

The commenter notes errors on pages 4.1-21 and 4.1-22. The texts of Page 4.1-21 of the Draft EIR and Page 28 of the HRTR (Appendix B of the Draft EIR) are revised as follows:

The one-block radius project vicinity established for archival research is bounded by Center Street on the north, Milvia Street on the east, Bancroft Way on the south, and on the east by a line generally running mid-block between Shattuck Avenue and Oxford Street/Fulton Street. Historical resources outside this boundary are considered to be too far from the project site to conceivably be affected by the proposed project. The project vicinity includes a wide array of
designated and potential historic resources, including 14 City of Berkeley landmarks and portions of two landmark districts: "Civic Center Historic District" and "Berkeley High School Historic District." Please see Appendix B1 to the Historic Resources Technical Report (Appendix B to this EIR) for photographs of several of these buildings.

 Six Five of the properties listed above, including the Berkeley Post Office, the Berkeley YMCA, the Masonic Temple, the Berkeley Public Library, the Tupper & Reed Building, and the Morse Block, as well as the two historic districts, are also listed on both the National and California Registers.

Response 4.43

The commenter notes that there are errors in the bulleted list on Page 4.1-22 of the Draft EIR. Language has been added to clarify that the list includes both (1) properties that have been found through previous survey evaluation to appear eligible for individual listing on the National Register, or (2) properties that have, through the Section 106 process, been determined eligible for individual listing on the National Register.

Properties have been included in this list based on their California Historical Resource Status Codes in the official California Historical Resources Information System (CHRIS) Historic Property Data File for Alameda County. Research to confirm the findings of the referenced 1977-1979 survey or other Section 106 determinations not reflected in the Historic Property Data File was beyond the scope of the vicinity analysis in the HRTR, the purpose of which was to identify properties within the project vicinity that have been designated or found eligible for local, state or national designation as historic resources.

The texts of Page 4.1-22 of the Draft EIR and Page 29 of the HRTR (Appendix B of the Draft EIR) are further revised as follows:

The following 40 properties that are not City Landmarks have either been found through previous survey evaluation to be eligible for individual listing on the National Register, or have, through the Section 106 process, been determined eligible for individual listing on the National Register:

Response 4.44

The commenter notes that on Page 4.1-25, “Policy HD 1-1a” should instead be “Policy HD-1.1’s action ‘b’.” This Policy is also referenced on Page 4.1-24.

The text of Page 4.1-24 of the Draft EIR is revised as follows:
Using the Secretary of the Interior's "Standards" as a starting point (in compliance with DAP Policy HD-1.1's action "b"), the Design Guidelines for future development in the Downtown Area should be updated to ensure that new construction respects the authentic character, significance and integrity of the existing building stock in areas that may have the potential for designation as historic districts.

The text of Page 4.1-25 of the Draft EIR is revised as follows:

Project compliance with the provisions of the LPO, conformance with the Secretary of the Interiors Standards (consistent with DAP Policy HD-1.1’s action “b”), and consistency with updated Design Guidelines intended to protect the character-defining features of those portions of the Downtown Area which may have the potential for designation as historic districts (as called for in Mitigation CUL-2, above) would reduce potential impacts associated with development that might jeopardize existing character defining features in those areas.

Response 4.45

The commenter states an opinion that the description of Impact CR-1 acknowledges that the landmark designation includes the 1913 and 1926 additions, but by omission suggests that the 1959 addition is not part of the designated landmark site.

This comment is noted. For the purposes of this Draft EIR analysis, language that clarifies which buildings on the property contribute to the property’s historic significance, is consistent with the finding that the 1959 addition sits within the landmark boundary but does not contribute to its significance.

Response 4.46

The commenter states an opinion that on Page 4.1-27 of the Draft EIR, the line that reads, “…demolition of the Shattuck Hotel,” is incorrect. This text has been revised as follows:

Impacts from demolition of the Shattuck Hotel1926 addition to the Shattuck Hotel and partial removal of the 1913 addition to the Hotel are potentially significant.

Response 4.47

The commenter states an opinion that in describing Impact CR-2 the Draft EIR fails to acknowledge that the proposed project would be inconsistent with the Downtown Area Plan. The comment does not specify in what way the proposed project is inconsistent with the Downtown Area Plan. The commenter is correct in that, as discussed in the Infill Environmental Checklist on Page 145, the proposed project would be potentially inconsistent with DAP Policy LU-4.2: Development Compatibility, and DAP Policy HD-1.1: Historic Buildings & Sites. The commenter does not provide specific information or analysis to challenge the analysis or
conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

Response 4.48

The commenter states an opinion that on Page 5-3, the Draft EIR incorrectly describes the Preservation Alternative as having a plaza along the “west,” rather than the north, half of the Harold Way frontage.

The text of Page 5-3 of the Draft EIR is revised as follows:

The Preservation Alternative would include a rectangular plaza along the westnorth half of the Harold Way frontage rather than a corner entry plaza as proposed for the project.

Response 4.49

The commenter states an opinion that on Page 5-18 the description of building heights in the third paragraph per the Preservation Alternative is inconsistent with descriptions of the heights in the fourth paragraph and with Figures 5-2 and 5-4 through 5-9. The description of building heights in the third paragraph refers to the proposed project, rather than the Preservation Alternative.

Response 4.50

The commenter opines that the assertion that the Preservation Alternative would involve “retaining the historic structures on site” is exaggerated, as the Alternative would involve destroying most of the 1926 addition and some of the 1913 addition’s horizontal extent.

The text of Page 5-38 and ES-4 of the Draft EIR is revised as follows:

It would involve retaining the historic structures on site, 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.
The Berkeley Neighborhoods Council (BNC) makes the following comments to the subject Draft EIR:

1. Why is this project an in-fill project? Why does it get to use the expedited process? There are no vacant properties or unused buildings on this site. Why cannot the existing building be renovated and used? They are in reasonably good condition and historically fit in to the area.  
2. Why is the proposed building height 194 feet when only 180 feet is allowed in the Downtown Plan. Is the Downtown Plan something that can be ignored?  
3. Why is the mass of this project so out of scale with the downtown at this location. The General Plan is clear that any new construction is to be compatible with the surrounding buildings.  
4. Why does the design does not fit with the rest of the historic buildings in the immediate area? Does the historical sufficient of the Downtown mean anything or it is something that can be discarded for the convince of whoever wants to develop in the area?  
5. With no public parking how will the project contribute to the financial well being of the Downtown and the city as a whole. If the tenants are UC students and single Hi-Tech workers they will purchase the stables, not other goods that could be offered. When comparing the Downtown to Fourth Street and Walnut Creek, parking is the key to successful commercial districts. How does this project help make the Downtown a viable commercial district?  
6. What will be the cost to the city for providing the public services required for this project? Will the project generate enough income to the city to pay for them or will the tax payers have to subsidize the project?  
7. Harold Way is a short one block street that is narrow with parking on both sides of the street. If the entrance to the towers is on Harold Way, how will the increased traffic be accommodated? Will the parking be removed? Will lost parking spaces be replaced? Will the businesses losing customers because of lost parking be compensated?  
8. With a 194 tall building, how is the shadowing on the West neighborhoods going to be mitigated? Will the East area get any sun light at all? Will the lose of potential solar energy be considered?
COMMENTERS: Dean Metzger, Berkeley Neighborhoods Council

DATE: November 17, 2014

RESPONSE:

Response 5.1

The commenter questions whether an Infill EIR pursuant to CEQA Guidelines Section 15183.3 is appropriate for the project, but does not provide information to challenge the City’s determination to that effect. Please see Section 1.0, Introduction, for a discussion of the applicability of the Infill EIR provisions of CEQA and a definition of what qualifies as an infill project. It should be noted that the Infill EIR process is streamlined in content and approach, but not “expedited” as implied by the commenter. CEQA timelines and notification periods are the same for an Infill EIR as for a non-infill EIR. The commenter also asks why the existing building cannot be renovated and used, as it is in “reasonably good condition” and “historically fits” the area. This scenario is discussed in Section 5.0, Alternatives, as the No Project alternative. In addition, the Preservation Alternative, also discussed in Section 5.0, includes retaining portions of the existing buildings. This comment on the merits of the project will be forwarded to the City’s decision makers for their consideration.

Response 5.2

The commenter asks if the Downtown Area Plan’s height restrictions can be ignored, as the proposed project is 194 feet tall and only 180 feet is allowed under the Plan. As described in Section 2.4, Project Characteristics, of the Draft EIR, the proposed project would not be 194 feet tall, but would have components of various heights, the highest portion reaching 180 feet in 18 stories. The Berkeley Municipal Code (Section 23E.04.020, Heights) allows for certain structures, equipment and projections to exceed the maximum height; these would reach a maximum of 194 feet.

Response 5.3

The commenter states an opinion that the project is out of scale with its surroundings and that the General Plan requires compatibility. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 5.4

The commenter states an opinion that the project does not fit with the historic buildings in the area. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 5.5

The commenter asks how the proposed project would contribute to the “financial well being” of Downtown and Berkeley without a public parking component. The commenter opines that
parking is the key to successful commercial districts. This comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration. In addition, as described in Section 2.4, Project Characteristics, of the Draft EIR, the proposed project would include up to 29 parking spaces available to the public and/or the Shattuck Hotel, in addition to 142 resident parking spaces.

Response 5.6

The commenter asks what the costs would be to Berkeley to provide the proposed project with public services. The commenter further asks if the proposed project would generate enough income to the City to offset to costs of providing it with public services. The public service related impacts of the proposed project are described under Item XIV, Public Services, of the Infill Environmental Checklist (Appendix A of the Draft EIR) and were found to be less than significant. In addition, this comment pertains to the potential economic and fiscal effects of the project, which are not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 5.7

The commenter asks how Harold Way would accommodate the increased traffic leading to a driveway on Harold Way, and whether it would reduce existing parking spaces on Harold Way. As noted in Section 2.4, Project Characteristics, of the Draft EIR, the entrance driveway would be on Kittredge Street, not on Harold Way. As also described in that section, the proposed project would include 171 parking spaces. Up to 29 parking spaces would be available to the public and/or the Shattuck Hotel. It is not anticipated that the proposed project would involve the removal of a substantial amount of on-street parking along Harold Way. In addition, the parking spaces would be accessed from Kittredge Street, not Harold Way. The commenter also assumes that businesses would lose customers due to a loss of parking and asks whether they would be compensated. This comment pertains to the potential economic effects of the project, which are not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 5.8

The commenter asks about the proposed project’s shadow impacts and whether the loss of potential solar energy would be considered. As discussed on Page 77 of the Infill Environmental Checklist and shown in figures 32 and 33 (Appendix A of the Draft EIR), project-related shading impacts would not occur to the Crescent, Civic Center Park, or other public open spaces, other than streets and sidewalks, 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. Therefore, the project would not adversely affect public open spaces with shading. The issue of solar access for neighboring structures is a related land use issue. The modeling confirms that there would be no impacts to neighboring structures wherein access to solar rays for energy production via photovoltaic arrays would be precluded in a substantial way. Although shading would incrementally increase, impacts would be less than significant.
Mr. Aaron Sage, Senior Planner  
City of Berkeley Planning Department  
Land Use and Planning Division  
2120 Milvia St., 2nd Floor  
Berkeley, CA 94704  

By Email To: asage@ci.berkeley.ca.us

Re: 2211 Harold Way (Shattuck Hotel)  
Mixed Use Project ("Project")  
Draft Environmental Impact Report ("EIR")

Dear Mr. Sage:

I write on behalf of the three properties located directly across Harold Way from the above-named project: Dharma College (2222 Harold Way); the Tibetan Aid Project (2210 Harold Way), and Mangalam Centers (2018 Allston Way). These three properties are all owned by Head Lama of the Tibetan Nyingmapa Meditation Center ("TNMC"). TNMC has serious concerns regarding the development and operation of the above Project in its current configuration, which will negatively impact the TNMC properties.

We bring to your attention the following issues:

Physical Damage to Neighboring Buildings: The EIR correctly notes that construction activities may cause excessive vibration that may damage the Shattuck Hotel. Dharma College and Mangalam Centers are both landmarked buildings that deserve to benefit from the mitigations discussed in the EIR. TNMC requests that they also be monitored during the construction phase to prevent physical damage.

Traffic and Parking: Even though the Traffic Studies referenced in the EIR...
conclude that the Project will be within the parameters of Alameda County Transportation guidelines, the fact remains that traffic and parking are already serious neighborhood problems. The EIR fails to take into account mitigations to relieve existing congestion before further congestion is added by the Project. Nearby college and high school students, library users, YMCA users, local business owners Dharma College students, and those wishing to shop at the Dharma Publishing bookstore consistently experience a lack of parking in the vicinity of the proposed Project, especially in bad weather. The EIR discusses the number of daily trips, but fails to provide information on the population increase generated by the Project. What is the total population expected from the proposed use of 302 new residences and 30,000+ square feet of leased commercial space? What are the mitigations offered by the owners of the Project to handle additional congestion in the area, including lack of adequate parking?

Groundwater and Flooding. There is underground water running underneath Kittredge Street. The buildings along the corridor between Shattuck and Milvia, including the TNMC properties, are already subject to flooding in heavy rains; this is especially the case for Dharma College. What are the mitigations offered by the owners of the Project to alleviate groundwater concerns and to be sure that the frequency and intensity of flooding along Kittredge Street do not increase during, or as a result of, the Project?

Noise during Demolition and Construction. The massive size of the Project will significantly add to the noise in the surrounding neighborhood. Such noise is not compatible with the uses already in place at Dharma College, which holds classes during the day and evening, including Saturdays, all of which involve meditation and other contemplative practices, and at the Tibetan Aid Project, which houses Dharma Publishing bookstore. It will also impact Mangalam Centers, which holds academic conferences several times a year. The EIR should set forth requirements for the mitigation or elimination of added noise to those areas located near the Project. Mitigation should include, among other things, a schedule of work that does not disrupt local businesses, and providing double paneled windows where necessary to lessen noise impacts.

Dirt, Storage of Equipment, and Street Closures during Demolition and Construction. TNMC has not been told how the owner intends to address the detrimental effects of its staging and construction activities on its operations, and the cleanliness of the exterior of our buildings. Mitigation should
provide adequate plans to minimize disruption to our operations and the operations of all adjacent businesses, such as the Berkeley Public Library, the Downtown Y, and Berkeley High School.

Size and Scope of the Project
TNMC is concerned about the massive size and height of the Project, its lack of open space, and the intensity of the planned commercial use. As the Project is currently designed, Dharma College will be negatively impacted in terms of light and air by the height and massive size of the structure. Dharma College urges that the Project be cut down in scope and re-designed to provide more greenery, landscaping, open space, light and air.

Harold Way is currently a quiet, lovely street—an oasis of calm in the middle of downtown Berkeley. Our organizations chose to invest in beautiful landmarked buildings on this block because these surroundings are consistent with our mission of bringing additional Buddhist educational opportunities to downtown Berkeley. The Project as designed will change the nature of Harold Way considerably. We urge the members of the Zoning Adjustment Board to carefully consider the issues discussed in this letter and make comments and recommendations to the EIR consistent with our concerns. Thank you.

Sincerely,

Robin Caton
Robin Caton, Director
Dharma College, for TNMC
**Response to Comments**

**Letter 6**

**COMMENTERS:** Robin Caton, Director, Dharma College, for Tibetan Nyingmapa Meditation Center (TNMC)

**DATE:** November 12, 2014

**RESPONSE:**

**Response 6.1**

The commenter states an opinion that the proposed project would physically damage Dharma College and Mangalam Centers, located across Harold Way from the project site, due to excessive vibration during construction and notes that they are both landmarked buildings. The commenter requests that both buildings be monitored during the construction phase to prevent physical damage. Potential vibration impacts from project construction are discussed in Section 4.1, *Cultural Resources*, of the Draft EIR and under Item XII, *Noise*, of the Infill Environmental Checklist (Appendix A of the Draft EIR). Appendix A describes the potential vibration impacts analyzed under the DAP EIR, and required mitigation, which includes avoidance of pile-driving/site-specific vibration studies/monitoring/contingency planning. As noted in Section 2.4, *Project Characteristics*, pile-driving would not be required. In addition, the Draft EIR requires implementation of Mitigation Measures CR-4(a) through CR-4(c). These measures were designed to ensure that the Shattuck Hotel, which would be closer to the source of construction vibrations, would not experience excessive vibrations. Based on the analysis and with these mitigation measures, impacts would be less than significant to the Shattuck Hotel. Vibrations are reduced with distance from source. Due to the increased distance and intervening soil and other material between the site and the Dharma College building, and because pile driving is not proposed, impacts at that location would be less than significant without the need for mitigation.

**Response 6.2**

The commenter states an opinion that the Draft EIR does not address existing traffic congestion. Per CEQA, the project is not required to address or mitigate existing traffic congestion. The project is only responsible for mitigating significant traffic impacts that are directly attributable to the project. However, the comment will be forward to the City’s decision makers for their consideration. Project-related traffic impacts are discussed in Section 4.2, *Transportation/Traffic*, of the Draft EIR. As discussed therein, impacts would be mitigated to a less than significant level through implementation of Mitigation Measure T-2.

The commenter states an opinion that there is an existing lack of parking in the vicinity of the proposed project. Pursuant to new Section 21099(d) of CEQA statute (Public Resources Code 21000–21177), 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. However, the comment will be forward to the City’s decision makers for their consideration during their review of the project. As described in Section 2.4, *Project Characteristics*, of the Draft EIR, the proposed project would include 171 parking spaces. Of these, up to 29 parking spaces may be available to the public and/or the Shattuck Hotel. The proposed 171 vehicle parking spaces would exceed the minimum requirements of the City’s Zoning Ordinance by 38 spaces. The City’s minimum parking requirements are intended to
meet projects’ parking demand and prevent adverse impacts on the Downtown’s parking supply.

The commenter further opines that the Draft EIR discusses the number of daily trips that would be generated by the proposed project, but fails to provide information on the population increase generated by the proposed project. The commenter asks how the new residential and commercial land uses would impact population. Population increase is not a direct element of the traffic analysis. The daily trip estimates are developed based on industry standard estimates for vehicle trips resulting from new residential units and additional commercial building space. The proposed project’s impact to population is described in Section XIII, Population and Housing, of the Infill Environmental Checklist located in Appendix A of the Draft EIR. No significant impacts were identified. The commenter does not provide specific information or analysis to challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

The commenter asks what mitigation would be required of the proposed project to address traffic congestion and parking. The Draft EIR identified one significant traffic impact at the intersection of Shattuck Avenue and Durant Avenue. This significant impact has an identified mitigation measure that reduces the impact to a level that is less than significant: a dedicated right-turn pocket at the Shattuck Avenue/Durant Avenue Intersection. No significant impacts related to parking were identified; therefore, no mitigation measures are required.

Response 6.3

The commenter states an opinion that there is underground water running underneath Kittredge Street and that buildings along the corridor between Shattuck Avenue and Milvia Street are subject to flooding during heavy rains, particularly the Dharma College building. The commenter asks what mitigation the proposed project includes to alleviate groundwater concerns and to ensure that the frequency and intensity of flooding along Kittredge Street does not increase during construction or operation of the proposed project. As discussed in Section IX, Hydrology and Water Quality, of the Infill Environmental Checklist located in Appendix A of the Draft EIR, groundwater is present at approximately 15 feet below grade at the project site. Section 7.1 of the Geotechnical Report (Appendix C to the Infill Environmental Checklist) contains recommendations for construction dewatering at the project site. Dewatering would be required during excavation and until the proposed waterproof slabs and walls are installed. This relatively common practice for below-grade excavation and construction would ensure that impacts related to localized groundwater would be less than significant. Please note that CEQA does not require that a proposed project solve or improve existing drainage conditions in the project area, only that it avoid or mitigate additional impacts over existing conditions.

The Infill Environmental Checklist also discusses project area drainage and storm water quantity/quality impacts in Section IX, Hydrology and Water Quality; as concluded there, the project’s impacts in that regard would be less than significant.

Response 6.4

The commenter states an opinion that construction noise from the proposed project would impact daytime noise sensitive uses at Dharma College and the Tibetan Aid Project, such as
classes, meditation, contemplative practices, a bookstore, and conferences. The commenter requests that the Draft EIR require mitigation for these impacts, such as limiting construction hours and installation of double paned windows. Potential noise and vibration impacts from project construction are discussed in Section XII of Appendix A of the Draft EIR. Required mitigation is also discussed therein, which includes site-specific noise reduction programs and noise abatement measures during construction (e.g., time limits for construction and technically and economically feasible controls to meet the requirements of the Berkeley Municipal Code), and avoidance of pile-driving/site-specific vibration studies/monitoring/contingency planning. As noted in Section 2.4, Project Characteristics, pile-driving would not be required. Based on the Berkeley Community Noise Ordinance and the analysis in the DAP EIR, Appendix A indicates that with mitigation, construction noise impacts at land uses surrounding the project site would not exceed those anticipated in the DAP EIR, and construction vibration impacts would be less than significant.

Response 6.5

The commenter states an opinion that the Draft EIR has not analyzed the impact of the proposed project’s staging and construction activities on the Tibetan Nyingmapa Meditation Center operations and building exterior. The commenter opines that the Draft EIR should include mitigation to minimize disruption to the operations of Tibetan Nyingmapa Meditation Center, the Berkeley Public Library, Downtown YMCA, and Berkeley High School.

Potential construction-related vibration and noise impacts are addressed in Responses 6.1 and 6.4 above. Proposed project construction activity is described in Section 2.4, Project Characteristics, under the Site Preparation and Construction subheading. Not all construction details are known at this time, such as precise staging locations, however, all project construction activities would be conducted consistent with local, state, and federal requirements, including the Berkeley Municipal Code and applicable Occupational Safety and Health Administration regulations. Although nearby construction can be inconvenient to project neighbors, it is a temporary condition and not considered a significant environmental impact, provided that standard conditions and mitigations for construction-related impacts are included in the project. The City requires a Transportation Management Permit (TMP) for any construction activity within the public right-of-way, and verifies through the TMP review process that no significant impacts to the safety or mobility of pedestrians, bicyclists or motorists will occur.

Response 6.6

The commenter expresses concern that the design of the proposed project will negatively impact light and air at Dharma College due to its height and size. The commenter requests that the proposed project be reduced in scope and re-designed to include more open space, landscaping, light, and air. Please see topical responses A, Project Visual and Historic Compatibility Impacts, and C, Adequacy of the Draft EIR Alternatives, for responses to these comments. The commenter also expresses concern that the proposed project would change the nature of Harold Way, which the commenter describes as a quiet and calm street. This comment on the merits of the proposed project will be forwarded to the City’s decision makers for their consideration during their review of the project.
December 1, 2014

RE: Draft Environmental Impact Report for 2211 Harold Way, Berkeley, CA

Dear Mr. Sage,

On behalf of The Cultural Landscape Foundation (TCLF), I am writing to comment on the Draft Environmental Impact Report (DEIR) for the proposed high-rise residential tower at 2211 Harold Way in the City of Berkeley. As Founder and President of TCLF, and past coordinator of the National Park Service Historic Landscape Initiative, I would like to express my concern about the proposed development plans.

A decade ago I had the pleasure of working on the creation of the Landscape Heritage Plan for the University of California, Berkeley campus. This research shed light on the considerable cultural landscape heritage of the site – a century of continuity and change – which includes the contributions of nationally significant designers such as Frederick Law Olmsted, John Galen Howard, Lawrence Halprin and Thomas Church who all had prominent roles in the development of campus plans, buildings, and grounds. One of the animating principles of the campus is its orientation towards the spectacular and unrivaled views of San Francisco Bay and the Golden Gate. This orientation was recognized and suggested by Olmsted himself in the 1860s, and subsequent campus plans have incorporated, built on, and amplified this vision.

Campanile Way is a centerpiece of this design. Because other key campus view corridors were compromised or lost through insensitive development and building placement in the 1960s, it is now the only place that a visitor walking through the campus can pause, see, and understand from the ground level the view that inspired generations of landscape architects who planned the campus. The Landscape Heritage Plan acknowledged the importance of Campanile Way and its accompanying views, by naming it one of nine significant and iconic historic landscape elements of the campus. The DEIR minimizes the significant impact that the project will have on this important historic resource saying: “the view impacts related to historic resources would be Class III, less than significant” because they "would not entirely block existing views of the Golden Gate" and indicating that, since the project will "not involve physical demolition, destruction, relocation, or alteration of Campanile Way or its immediate surroundings ... it would not cause a substantial adverse change to a historical resource" because it would not “materially impair the significance of Campanile Way or the Classical Core.”

In opposition to these statements it is my opinion that the proposed project would detrimentally and unequivocally compromise Campanile Way's iconic historic view and, by extension, the Classical core of the campus. Especially in light of the fact, that, as the DEIR states "the project would obscure approximately three quarters of the visible portion of Alcatraz Island, and almost half of the visible portion of the deck of the Golden Gate Bridge."

Several relevant points to note include:
The selection of the view corridor predates the buildings of the campus and Campanile Way. The route of Campanile Way appears on official campus maps as early as 1873 as a line oriented the same direction as Campanile Way, positioned slightly north of the current roadway location. When the very first two buildings were constructed on the campus, South and North Hall, they were carefully sited to sit perpendicular to the head of this axis.

Later, the first campus library building (Bacon Hall) with its clock tower, and the campus flagpole, were symmetrically placed slightly to the east, at the head of the axis. In the early 20th century under the guidance of John Galen Howard as Supervising University Architect, four of the grand Beaux Arts buildings of the campus were placed to flank and emphasize this axial route, and the roadway itself was very consciously landscaped with foundation plantings, lawns, and trees in the Beaux Arts tradition.

Finally, in 1913-15, the Sather Campanile was added at the top of the axis, replacing the flagpole and providing a grand punctuation mark and monument in the center of the campus. This is when the name “Campanile Way” came into use, nearly half a century after the pathway / view corridor itself was first defined.

The issue of development impacts on historic view corridors has arisen elsewhere in the country. In 2005-2008, for example, citizens of Brooklyn, New York, were successful in reducing the height of a proposed development adjacent to the historic Greenwood Cemetery. As originally proposed, the development would have blocked views from a 1920 Minerva statue to the Statue of Liberty in New York Harbor; the Minerva statue had been intentionally positioned to gaze at, and symbolically greet, the larger, older, monument. After community outcry about the historic view impacts, the development was reduced in height from 70 to 42 feet, and the developer demonstrated on site -- using a cherry-picker raised to the project height -- that the view would be spared. Citizens later pursued incorporating historic view protections into New York City policy.

TCLF’s mission is to provide people with the ability to see, understand and value landscape architecture and its practitioners, thus broadening the support and understanding for cultural landscapes nationwide. The Campanile Way viewshed is a significant historic resource worthy of protection and preservation. We strongly encourage the pursuit of project alternatives that do not impact the historic view down Campanile Way in the final Environmental Impact Report and adoption of such a plan.

Sincerely,

Charles Birnbaum, FASLA, FAAR
Founder and President
Letter 7

COMMENTER: Charles Birnbaum, FASLA, FAAR, Founder and President, The Cultural Landscape Foundation

DATE: December 1, 2014

RESPONSE:

Response 7.1

The commenter provides background on his career and opinions on the importance of the westward view from Campanile Way to the campus and its visitors. This information does not conflict with the analysis in the Draft EIR, which acknowledges that the view is an important character-defining feature of a landscape element (Campanile Way) that has been identified as a contributor to a cultural landscape (the Classical Core of the UC Berkeley campus). The commenter quotes the Draft EIR that “the project would obscure approximately three quarters of the visible portion of Alcatraz Island, and almost half of the visible portion of the deck of the Golden Gate Bridge;” it should be noted that this discussion referred to the location on Campanile way of the maximum or near-maximum view impact, whereas the changes in view that would result from the project would range widely depending on the specific viewpoint at the Campanile base and moving down Campanile Way. The commenter also states an opinion that the proposed project would compromise Campanile Way’s historic view and, by extension, the Classical core of the campus, and that the impact would be significant. The commenter thus disagrees with the Draft EIR conclusion of impact significance but does not specifically challenge the facts or analysis in the Draft EIR; thus a specific response is not possible, although the difference of opinion is noted. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for additional responses and information on this topic.

Response 7.2

The commenter provides background on planning and development of Campanile Way and its surroundings within the UC Berkeley campus. The commenter also states an opinion that the selection of the view corridor in question predates the buildings of the campus and Campanile Way.

To compile the historical summary of Campanile Way included in the HRTR (Appendix B to the Draft EIR) in its Section 6.5, ARG relied on the background information included in the Landscape Heritage Plan, along with information from several supplementary sources, including:


The commenter’s description includes information regarding the development of Campanile Way that is referenced in the Landscape Heritage Plan and should be added to the HRTR. In particular, it is important to note that the right-of-way corresponding to Campanile Way first appeared on the 1873 campus plan, and that the first buildings constructed on the campus were oriented around this axis. Accordingly, Page 4.1-17 and 4.1-18 of the Draft EIR and Page 32 of Section 6.5 of the HRTR have been revised to read as follows (footnotes removed for clarity):

Frederick Law Olmsted’s 1865 Plan for the College of California (UC Berkeley’s predecessor) did not include an east-west corridor corresponding to today’s Campanile Way. Instead, Olmsted’s picturesque plan was organized around a central east-west axis that was located further north and passed through the campus’ Central Glade. That said, a Center Street axial path, the predecessor to Campanile Way, had been established as a secondary east-west axis by the late 1800s. The eastern terminus of this axis was a central flagpole and formal landscape framed by North Hall, South Hall and Bacon Hall. First appears on the 1873 UC Berkeley campus plan prepared by engineer and landscape architect William Hammond Hall. That same year, the campus’s first buildings, North and South Halls, were constructed flanking the eastern end of this axis. Bacon Hall was added at the axis’ eastern end in 1881. Around this same time, a flagpole marking the eastern terminus of the Center Street path was installed west of Bacon Hall. This pole served as the “vertical center point” of the campus.

In the first years of the twentieth century, campus architect John Galen Howard implemented a bold Beaux-Arts plan for the new UC Berkeley campus. This plan reinforced the Central Glade axis, which terminated at the 1902 Hearst Mining Building, and significantly further increased the prominence of the former Center Street axis, which became Campanile Way with completion of the Campanile (Sather Tower) in 1914.

These revisions clarify the historic background of Campanile Way, but do not change the analysis or conclusions of the Draft EIR.

Response 7.3

The commenter provides information on a project in New York where changes were made to a proposed building to reduce view impacts. This information is noted. Both alternatives analyzed in Section 5.0, Alternatives, include reduced heights on the northern portion of the project site that would reduce view impacts. An alternative to fully eliminate all possible view intrusions was not required per CEQA, as view impacts would be less than significant, as discussed in Section 4.1. Finally, the commenter states an opinion that the Campanile Way viewshed is a significant historic resource in its own right. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment. Please also see figures 1 through 6 above for a simulated view of the two alternatives from the three UC Berkeley Campus viewpoints used in the Draft EIR from which the project would be visible; both alternatives would have a reduced effect on the view in question. Finally, please see Section 4.2 at the end of this document for revised figures showing the project as currently proposed, i.e. without rooftop trees or trellises on the northern portion of the proposed rooftop deck.

City of Berkeley
2701 Virginia Street
Berkeley, CA 94709

November 18, 2014

City of Berkeley Planning Department
Land Use Planning Division
2120 Milvia Street
Berkeley, CA 94704

Attention: Mr. Aaron Sage, Senior Planner

Dear Mr. Sage:

The attached comments are submitted on the Draft Environmental Impact Report for the 2211 Harold Way Mixed-Use Project.

I am submitting these comments as a resident of Berkeley and as an individual and not as the member of any organization.

If you need any further information, please contact me at the above address, by email to cristoforoadami2@gmail.com, or by phone (510) 549-2701.

Sincerely,

Christopher Adams
Comments on the 2211 Harold Way Mixed Use Project Environmental Impact Report

The project “objectives” are vague justifications for exploitive development. The benefits of the project are not defined. It is important to read the first project objective with particular care. It states:

“Implement the Downtown Area Plan and Street and Open Space Improvement Plan by leveraging the full development potential under Zoning Ordinance standards in order to generate the revenue necessary to provide all the community benefits envisioned in the Downtown Area Plan plus additional community benefits proposed in the project application and maintaining project financial feasibility [italics added].” (p. 2-57)

Note the phrases in italics. The applicants want to leverage the full development potential, i.e., extract the maximum height and square footage they can get from the City in order to generate revenue for “all the community benefits envisioned” in the DAP and for “additional community benefits proposed in the project application.” The “community benefits” in the DAP are not described in the EIR so it is not possible to know what any of them are, much less “all” of them. The project application seems to consist of several separate documents which are not part of the EIR. After reviewing them I was unable to find a description of any “community benefits.”

The final statement in italics “maintaining project financial feasibility” is reasonable but misleading. Financial feasibility means making a reasonable profit; it does not mean the applicant has the right to make the most money possible. In order to be meaningful the EIR should explain what the “benefits” are and should provide an explanation of how each increment of increased leverage relates to benefits. The City is the official preparer of this EIR, and ultimately the City must approve it. The EIR must contain sufficient information so that the City and its Council, ZAB and LPC can determine if, in fact, the necessary overriding considerations are present to justify approval. This requires that the EIR establish the link between the “leverage” being sought by the applicant and the “benefits” to be gained by the City, and the “benefits” must be defined. The EIR must explain enough so that the City can decide if the project should be approved to obtain “all” the benefits or whether a different or smaller project which generates less revenue and fewer benefits would be better for downtown and for the citizens of Berkeley. As written the EIR is completely deficient in providing this essential information.

The EIR fails to confront the lack of compatibility of the project with its setting. The EIR states on p. 2-16 that “ZAB must find that the project is compatible with the visual character and form of the district.” It may be argued that the 180-foot tower at the southwest corner is “compatible” with the Wells Fargo Building and the Great

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Western (now Chase) Building. But there is no way that the block-wide 120-foot high slab along Harold Way is compatible with anything nearby. Figures 2-21, 2-22 and 2-24 demonstrate that this slab extends for the full width of the block frontage. Including the south tower, which is 180 feet tall, the total width of the slab along Harold Way is approximately 235 feet. It will overwhelm the historic buildings which face it. The EIR utterly fails to explain how such a slab, forming a wall to views and sun, is compatible with the current character of downtown or with the drawings included in the DAP and its Design Guidelines.

**The EIR is elusive about the support for below market housing.** The EIR states on p. 2-19 “If the project residential units are to be rented, 10% or 28 units are to be designated as below market [italics added].” What does this mean? Will the residential units be rented or not? If the residential units will be sold rather than rented, does this mean that fewer than 28 units or even no units will be designated as below market? One of the few obvious benefits of the project is additional below market housing which is offered as some kind of balance to justify the many environmental impacts the project creates. These weasel words get the developer off the hook.

**The EIR rejects the impact of loss of views from the UC campus for specious reasons and fails to consider adequately the impact of loss of views from the west.** The view impact discussion within the EIR (p. 4-1-34) focuses entirely on the views from Campanile Way within the UC campus which will be blocked by the project. The EIR verbally stands on its head to explain that this view blockage doesn’t matter because the precise point from which the views are blocked is not a designated historic site. This is an absurd legalism to use in evaluation of an environmental impact, perhaps providing some protection from an EIR lawsuit but in no way conforming to the spirit of the law.

Only in Appendix A to the EIR is there anything about views toward the campus and Berkeley hills from the west which will be blocked, and this discussion is limited to the impacts on views from streets adjacent to the proposed project. The Campanile is a visible landmark from points outside Berkeley as well as from major city arteries such as University Avenue, and there is no analysis of what impacts a 120 foot high block-wide slab will have on the views of the Campanile or the Berkeley Hills from major city arteries or other points west of downtown.

The Downtown Area Plan EIR considered that “reduction of existing views of the Berkeley hills available to observers traveling east along east west streets in the Downtown Area (e.g., University Avenue, Center street and Allston Way)...would represent a potentially significant impact.” For unknown reasons the DAP EIR established as Mitigation AES-1: Conduct Site-Specific Visual Analysis for Buildings only for buildings proposed between Shattuck Avenue and Oxford Street, as if no one further to the west (for example from Berkeley High School) cared about this view. As proposed, the 120 foot-high slab of the proposed project will obliterate any view of the hills. The EIR should examine this impact and propose mitigations.
The EIR fails to consider an alternative with a smaller number of residential units and less square feet. The EIR analyses, as it must under CEQA Guidelines, the “no project” alternative on p. ES-2, but of the other project alternatives considered none is a smaller project. The two alternatives examined contain the same or an insignificantly lesser number of residential units and commercial square feet as the proposed project. No smaller alternative is considered which would 1) reduce traffic and air quality impacts, 2) reduce the overpowering visual impact on surrounding historic properties, and 3) reduce the impact on views, sun, and light by reducing the height of either the 180-foot tower or the 120-foot Harold Way slab. In the opinion of this commenter a reduction in the height of the Harold Way slab would be the most effective way of reducing the worst aspects of this project’s impact.

Any development that increases the density of the property will make a profit. In this regard it is important to remember that the City, not the project applicant is the author of the EIR (see the title page and the page following). The City is not obliged to grant complete maximization of the development of the land. The purpose of an EIR is to give the City enough information to balance the environmental impacts against other objectives. The applicants will make a profit from any difference between what the value of the underlying land is under current height limits and what the City allows them to develop. If they build fewer than 302 units and less than 389,470 square feet, the land will still be worth much more than its current value. There is nothing in the DAP which requires the city to allow the maximum possible development within the increased height envelope. A less dense development can still meet the goals of the DAP, meet the basic goals of the developer, and, most importantly, have less deleterious environmental impacts.

It appears that the project proponents have not included a project alternative of lesser density because they believe that they are exempt under Section 15183.3 of the CEQA Guidelines. But the EIR quotes CEQA Guidelines 15183.3 which state that “an infill project must...be consistent with the general use designation, density, building intensity, and applicable policies for the project area...”

The EIR itself states that the project is not consistent with the permitted density and building intensity of downtown where it notes that the City must give the following discretionary approvals:

“Use Permit to construct more than 10,000 square feet of area
“Use Permit to exceed a building height of 75 [sic. The correct number is 60] feet.” (page ES-2)

The development standards incorporated in the City codes under 23E.68.070 may be applicable to this project, but reference to them seems to be completely missing in the EIR, and there is no discussion which demonstrates if the project complies with these standards.
Rejection of the Preservation Alternative is not based on supportable arguments. The EIR discussion (p. 5-16 to 5-17) rejects the Preservation Alternative on the basis of a series of straw men. Instead of facing the fact that it may generate somewhat less profit for the developers, the Preservation Alternative is rejected because of the need for revenue for some vague promises about ephemeral DAP “improvements.” The EIR provides no numbers for what the difference in revenue would be between the preservation alternative and the proposed project and, more important, there is no firm and enforceable commitment that an increase in revenue, if it did materialize, would go to DAP “improvements” rather than the developer’s pockets. The EIR also rejects the Preservation Alternative because it produces slightly less residential units and thus will affect the “vibrant urban character” of downtown. Even if this were true, which cannot be proven, the accompanying reduction in impacts in other areas would more than balance any loss in “vibrancy.” Finally it is stated that the Preservation Alternative would inhibit development of storefronts on Kittredge and Harold Way because of the need to preserve the existing walls and to follow Department of Interior rules. This seems to condemn the project architects in advance of being unable to create viable retail spaces in historic buildings, despite the numerous examples of such designs all over the world.

The EIR states the total area of the project inconsistently. In the table on ES-2 the sum of all square footage figures is 389,470 square feet. On page 5-16 the EIR states that the total for the project is 310,361 square feet. The difference appears to represent the area for parking, but there is no reason that parking is exempt from the EIR. Its construction will cause impacts just as any other parts of the project or arguably greater because of the excavation involved, and it will continue to create impacts to traffic and air quality upon completion.

The EIR fails to analyze or even to address the overpowering visual impact the proposed project will have on adjacent historic buildings. Apparently the project proponents and their EIR consultants have justified their enormous tower and slab project because “potential development on the project site was within the DAP vision and is included in all aspects of the DAP EIR.” (page 1-6) However, what the DAP Design Guidelines actually state is:

“[FOR] ALL BUILDINGS
1. Consult the Berkeley’s [sic] Zoning Ordinance for specific height limits for sub-areas within the Downtown.
2. Respect the height of neighboring buildings, and provide a sense of continuity and enclosure which avoids abrupt changes in height...

[FOR] LANDMARK & SIGNIFICANT BUILDINGS
Use sensitivity when adding height to historic buildings, and propose additional height only when necessary...” (Design Guidelines, page 63)
Perhaps most significant in terms of the DAP “vision” are the drawings included in the DAP itself which were used in the development of the plan by the DAPAC. The tallest alternative, which is germane to the project in the EIR, is described as follows:

“5-Story at Street with Narrow High-Rise. This Alternative steps the building back above the 5th floor. Zoning controls would limit the width of the upper part of the building so that sunlight would be blocked at any point on the street for only an hour or two a day. Setting the building back also maintain [sic] a building silhouette of 5-6 stories as seen from the sidewalks. The taller building height of the building depicted is also 180 feet while the height at the street is about 65 feet.” (DAP, page IN-4).

This is a lovely vision, but the EIR utterly fails to demonstrate how the proposed project fits into it. In fact, looking at EIR Figures 2-21, 2-22, and 2-23 makes clear that the proposed project completely overpowers its neighbors to the south and west, and the EIR completely ignores this fact. Setting back the 120 foot-high slab by 15 feet from the property line will not “maintain a building silhouette of 5-6 stories as seen from the sidewalk.”

The EIR does not correctly address the issue of shadows and blocking of sunlight on nearby buildings and adjacent streets. There is no discussion of shadows and sunlight in the main body of the EIR; however, there is brief discussion on page 77 of the Initial Environmental Checklist, which forms part of Appendix A. Apparently this issue was not considered significant enough to be discussed in the EIR itself. However, even a cursory look at Figures 32 and 33 following page 77 of the Initial Environmental Checklist shows that the project will block sunlight on adjacent streets for much more than “only an hour or two a day” as promised in the DAP Guidelines quoted above.

In addition one may question the accuracy of Figures 32 and 33. The photograph below shows Allston Way, one block east of the proposed project, at 11 AM on June 21, 2009. As can be seen at almost midday on the summer solstice the Brower Center casts a shadow on Allston Way to past the center of the street. This is a real photograph, not a computer simulation. Even the lowest portions of the proposed Harold Way project are taller than the Brower Center and the 120-foot high slab is more than twice as tall. Despite what is shown in Figure 32 it is likely that major portions of the proposed project will shade the full width of Allston Way, even on the summer solstice. The impact of the 120-foot high slab on sunlight for Harold Way and for the historic buildings on the west side will be significant in the morning even on the summer solstice, and worse on any other day of the year. The EIR is completely deficient in its failure to address this issue. Further, the blockage of sunlight is a complete break with the promise of the DAP and its Design Guidelines.
The EIR does not admit that there may be issues of wind turbulence, which result from a tall building. There is reference in the Draft Infill Environmental Checklist to a report on wind and comfort included as Appendix F to the Checklist. However, within the EIR itself the subject is essentially ignored on the grounds that the only expected wind turbulence will be on the roofs of the project itself, and because they are “private,” this is not considered an impact. Since the roof areas are designed as to provide open space for the project residents and to meet City requirements for open space, this is a weak argument for ignoring the problem. In addition the wind turbulence on the roofs will create hazards for pedestrians walking on public space below the project. Here is what Appendix F actually says about wind turbulence on the roofs:

“All rooftop decks would be windy for some wind directions and would need to be carefully landscaped to reduce wind and improve usability… Vegetation, sculptures, planter boxes, fences and hedges can all be used to reduce winds. For safety, outdoor furniture used on terraces should be anchored.”

In other words, the rooftop winds will be great enough to blow furniture off onto sidewalks 180 or 120 feet below. This danger to pedestrians should be revealed and discussed in the main EIR and better mitigation than “anchoring furniture” should be required.

A second problem is not discussed in the EIR and is only alluded to and then dismissed in the analysis in Appendix F. This is wind turbulence at ground level. Appendix F describes the winds as follows:

“The Harold Street facade of the building would face west which is the prevailing wind direction. The Kittredge Street facade of the building would face south which is historically the direction of the strongest winds in the Bay Area. Strong westerly winds generally occur during late spring through early fall and typically peak in the afternoon. Strong southerly winds occur in winter and are associated with winter storms, and can occur at any time during the day.’

Appendix F then describes the configuration of the building, incorrectly, as follows:

“The massing of the proposed project is complex. An L-shaped base of 5 stories would extend along all of the Harold Way and Kittredge Street frontage. This base structure would be largely sheltered from westerly or southerly winds by existing structures, such that only the top floor would extend above the surrounding buildings. Because of the limited exposure of this lower base of the building, any pedestrian wind accelerations generated by the base structure building faces would be minor.”

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1 Appendix F is almost impossible to access online; this commenter had to seek help from an expert in IT to see it.
Apparently the “complex” massing of the building was too much for the consultant to comprehend. The L-shaped base of five stories does not “extend along all of the Harold Way and Kittredge Street frontage.” The low-rise base portions of the project stop short of the southwest corner, and the 180-foot tower comes directly to the ground. There is no intervening “base structure” at the corner.

This commenter has participated in the planning and design of both suburban low-rise and downtown high-rise buildings and has observed wind tunnel studies and reviewed other types of wind analysis. From this experience he has gained an appreciation of the potential risks of wind turbulence at ground level and the fact that turbulence is increased when a tall building is downwind from a low-rise structure. This is precisely the situation created by the proposed project which positions the 180-foot tower downwind from the Central Library to the south where storm winds come from and downwind from Dharma College (the former Armstrong College) to the west where prevailing winds come from. Because this tower is proposed across from a small existing plaza at the entrance to Berkeley's Central Library and, as currently proposed, would also be directly above a plaza-like enhancement of the intersection of Kittredge and Harold Way, the safety, comfort and livability of these spaces may be seriously and adversely affected by wind turbulence.

In sum the EIR is deficient because the wind impacts on the roof, which it does identify, are whitewashed as being “private” and because it fails to examine the significant likelihood of wind turbulence on public streets and sidewalks adjacent to the tower portion of the project.
Qualifications of Commenter: Christopher Adams is a registered architect and holds a Master in City Planning degree from UC Berkeley. His experience includes the design of high-rise office and university projects in downtown Montreal, Quebec, Canada. He is now retired from the University of California, where as Director of Long Range Planning at the Office of the President he was responsible for the review of environmental documents prepared by all the campuses of the University. In addition he was the Campus Planner for UC Merced and oversaw the preparation of its first master plan and accompanying EIR and the design of its initial academic buildings. Note that these affiliations are listed for identification only.
Letter 8

COMMENTER: Christopher Adams

DATE: November 18, 2014

RESPONSE:

Response 8.1

The commenter states an opinion that the project objectives are “vague justifications for exploitive development” and that the benefits of the proposed project are not defined. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration. It should be noted that the proposed project is subject to DAP Policy LU-2.2 and implementing text in the Berkeley Municipal Code, as discussed in Response 8.2.

Response 8.2

The commenter expresses concern that the “community benefits” in the Downtown Area Plan are not described in the Draft EIR and that the project application consists of several documents not included in the Draft EIR. The Berkeley Municipal Code 23E.68.090, Findings, states:

E. In order to approve a Use Permit for buildings over 75 feet in height under Section 23E.68.070.B, the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities. The applicable public benefit requirements of this Chapter shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.

The proposed project would be required to provide “significant community benefits,” which would be included as conditions of approval for the proposed project. It is not within the purview of the Draft EIR to determine whether significant community benefits would be provided by the proposed project, but rather the role of decision makers. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response 8.3

The commenter states an opinion that the EIR must establish the link between the project objective, “leveraging the full development potential” of the project, being sought by the applicant and the community benefits to be gained by the City, which requires that the “benefits” be defined. The commenter opines that the EIR must include a discussion of the tradeoffs between the “leverage” the applicant is seeking and the “benefits” the City is receiving.
so that decision makers can determine if the necessary overriding considerations are present to justify approval of the project. The commenter states an opinion that the EIR is deficient by not providing this information. However, this information is outside of the scope of the EIR, which focuses on physical impacts to the environment. Please see responses 8.2 and 8.3, above, for more information. Nevertheless, it is noted and will be forwarded to the City’s decision makers for their consideration.

Response 8.4

The commenter states an opinion that the Draft EIR fails to discuss the lack of compatibility of the proposed project with its setting or drawings and Design Guidelines in the Downtown Area Plan. The commenter opines that “the block-wide 120-foot high slab along Harold Way” is particularly incompatible with the setting as it overwhelms the historic buildings that face it and blocks views and sunlight. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. Additional discussion of consistency with the Design Guidelines can be found in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR.

Response 8.5

The commenter states an opinion that the EIR is “elusive” in describing how the proposed project would support below market housing. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units).

Response 8.6

The commenter states an opinion that the Draft EIR “rejects” the impact of loss of views from Campanile Way within the UC Berkeley campus and concludes that it “doesn’t matter.” On the contrary, the Draft EIR, in the Infill Environmental Checklist under Item I, Aesthetics, and in Section 4.1, Cultural Resources, includes a detailed discussion of the changes in this view, and although it does conclude that impacts would be less than significant, neither rejects the potential for impact nor concludes that it does not matter. As stated on Page 4.1-33, the Draft EIR discusses that these views are a character-defining feature of a landscape element (Campanile Way) that has been identified as a contributor to a cultural landscape (the Classical Core of the UC Berkeley campus). The discussion goes on to describe, and show in visual simulations, the extent of the project’s impact to Campanile Way views. The commenter does not provide specific information or analysis to challenge the analysis or conclusions. Please also see Topical Response B, Impacts to the Westward View from Campanile Way, for additional responses and information on this topic.

Response 8.7

The commenter states an opinion that the Draft EIR inadequately addresses the impact of the proposed project on views toward the campus and of Berkeley hills from areas west of the project site and should propose mitigation. As discussed in Topical Response A and Response 4.9, private view impacts pertain to aesthetics, and the aesthetic impacts of this project cannot be considered significant under CEQA. Please see Item I, Aesthetics, in the Infill Environmental
Checklist for a discussion of views of the Berkeley Hills. Although the proposed project may be visible from some private viewpoints and portions of some street segments or other public locations west of the project site, such views would mostly be blocked by existing intervening trees and buildings. Where visible, the project may block portions of partial views of the hills along with the intervening features. However, such views would not be “obliterated” as asserted by the commenter, nor substantially blocked. The commenter does not identify any locations from which such views would be substantially blocked, or which are identified as critical viewpoints or corridors in adopted City plans or regulations. Impacts to eastward views of the Berkeley Hills or campus would be less than significant.

Response 8.8

The commenter states an opinion that the Draft EIR fails to consider an alternative with a smaller number of residential units and less square feet. The commenter opines that an alternative with a reduced height on the “120-foot Harold Way slab” would be the most effective alternative for reducing the project’s impacts. Please see topical responses B, Impacts to the Westward View from Campanile Way, and C, Adequacy of the Draft EIR Alternatives, for responses to this comment.

Response 8.9

The commenter states an opinion that the purpose of an EIR is to give the City enough information to balance the environmental impacts of a project against other objectives. The commenter opines that a less dense development can meet the goals of the Downtown Area Plan and the basic objectives of the developer, while having reduced environmental impacts. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment.

Response 8.10

The commenter states an opinion that development standards (23E.68.070) may be applicable to the proposed project, but discussion of the standards are not included in the Draft EIR. Berkeley Municipal Code Section 23E.68.070, Development Standards, is discussed in on Page 2-13 in Section 2.3, Land Use Regulatory Overview, and on Page 5-3 in Section 5.2, Preservation Alternatives, of the Draft EIR. The commenter opines that the proposed project is not consistent with the permitted density and building intensity of the downtown area and thus not exempt from considering such an alternative under Section 15183.3 of the CEQA Guidelines. However, the project may be permitted by granting of the approvals listed in Section 2.6, Required Approvals, of the EIR, consistent with Municipal Code Chapter 23E.68, C-DMU Downtown Mixed Use District Provisions. Please see also Topical Response C, Adequacy of the Draft EIR Alternatives, for additional information on the scope of the alternatives analysis pursuant to Section 15183.3(e) of the CEQA Guidelines.

Response 8.11

The commenter states an opinion that the Draft EIR provides weak arguments in “rejecting” the Preservation Alternative. The commenter expresses concern that the Draft EIR does not discuss what the difference in revenue would be between the Preservation Alternative and the
proposed project and does not include a provision that would ensure that increased revenues would result in more support for Downtown Area Plan “improvements.” The Draft EIR does not “accept” or “reject” project alternatives. Such decisions are the purview of the City’s decision makers and must be supported by specific findings at that time. The discussion referred to by the commenter simply examines the alternatives in light of the applicant’s expressed project objectives.

Response 8.12

The commenter states an opinion that the Draft EIR “exempts” the square footage of the proposed building that would be devoted to parking. On the contrary, all facets of the environmental analysis – particularly those associated with geotechnical concerns, cultural resources, and excavation activities (and the associated noise, traffic and air quality impacts) take the below-grade parking areas into account. See Section 2.4, Project Characteristics, for details on the proposed excavation and below-grade parking garage and cinema uses. Although below-grade parking areas are not counted as “gross floor area” under the Berkeley Municipal Code, this calculation is a technical code application matter that does not affect the environmental analysis which, again, included construction and operation of the parking garage in its assessment of potential environmental impacts.

Response 8.13

The commenter states an opinion that the Draft EIR fails to analyze the visual impact of the proposed project on adjacent historic buildings. The commenter expresses concern that the design of the proposed project is not compatible with the Downtown Area Plan vision or Design Guidelines. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. Additional discussion of consistency with the Design Guidelines can be found in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR.

Response 8.14

The commenter opines that the Draft EIR and the Initial Environmental Checklist in Appendix A do not correctly address the issue of shadows on nearby buildings and streets. As discussed there and shown in figures 32 and 33, project-related shading impacts would not occur to the Crescent, Civic Center Park, or other public open spaces, other than streets and sidewalks, 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. Therefore, the project would not substantially increase shadows on public open spaces. The modeling confirms that there would be no impacts to neighboring structures wherein access to solar rays for energy production via photovoltaic arrays would be precluded in a substantial way. Although shading would incrementally increase, impacts would be less than significant.

The applicant also questions the shadow diagram on Figure 32 of the Infill Environmental Checklist (Appendix A to the Draft EIR) by referring to a photograph that the commenter claims shows June mid-day shading from the Brower Center (which is east of the project site on Allston Way). This is compared to the “6/21, 12:00pm” image on Figure 32. It should be noted that the image shows similar shading on Allston Way as that shown in the commenter’s
photograph. Although the proposed project at that corner, which would be 12 stories in height, would be taller than the David Brower Center (2150 Allston Way), it would also be set back up to 15 feet from the sidewalk above the fifth story, which would decrease the shadow extent. Finally, the commenter states that the photograph in the comment letter was taken at 11 am, when shadows are longer than at the noon timing of the Figure 32 simulation. Thus the shadow diagrams in the Draft EIR are sufficiently accurate and adequate to determine the general extent of project shadows.

Response 8.15

The commenter states an opinion that wind impacts are “ignored” in the Draft EIR because they would mostly affect the proposed project’s private rooftop areas. Potential wind impacts, including at street level, are discussed on pages 139-142 of the Infill Environmental Checklist (Appendix A to the Draft EIR). Appendix F to the Infill Environmental Checklist is a wind consultant’s analysis of potential wind and comfort impacts of the proposed development. The Infill Environmental Checklist discussion appears in the discussion of whether the project would “conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project,” specifically Downtown Area Plan Policy HD-4.2: Solar, Visual & Wind Impacts. This policy applies to “wind-related impacts on important public open spaces,” but not to private rooftop decks. Impacts were found to be less than significant without mitigation. Please see also Response 4.12 above.

Response 8.16

The commenter expresses concern that wind turbulence on the rooftop decks of the proposed building would create hazards for pedestrians walking on public space below, and that mitigation for this should be included in the Draft EIR. The wind consultant’s report (Appendix F to the Infill Environmental Checklist) points out that elevated rooftop decks are in general windier than ground-level spaces because wind speed will normally increase with elevation above the ground and this is unrelated to design of the building. However, the recommendations regarding the need to design landscaping to reduce wind and to anchor furniture are standard recommendations for any elevated rooftop space. The recommendation for anchoring furniture was included because standard outdoor furniture such as tables and umbrellas may not have sufficient weighting and could fall over, and may pose a hazard to deck users, rather than pedestrians at ground level. Impacts would remain less than significant.

Response 8.17

The commenter states an opinion that the wind analysis in the Draft EIR does not accurately reflect the project as proposed, and that wind impacts are incorrectly assessed in the Draft EIR. It is acknowledged that the project plans have been subject to refinement since the wind consultant’s report was prepared. Design changes have occurred at the southwest corner of the building that result in the differences between the current project configuration at the southwest corner and the project description contained in Appendix F of the Infill Environmental Checklist that the wind report was based on. The current plans do not show the low rise base continuing along both Kittredge Street and Harold Way frontages. An entrance plaza is shown at ground level at the southwest corner within a two-story cut out. The change affects approximately 50 feet of the Harold Way frontage and 40 feet of the Kittredge Street frontage.
The consultant’s wind analysis evaluated the potential strength of ground level wind accelerations near buildings as controlled by exposure, massing and orientation. The changes in project plans since the analysis was prepared would have no effect on exposure and orientation (Donald Ballanti, Consulting Meteorologist, email communication 12/17/14). The changes in design affect massing somewhat, but the low-rise base is still present along all but approximately 50 feet of Harold Way frontage and 40 feet of the Kittredge Street frontage. The southwest corner of the building may no longer contain a low-rise base, but it could not be said to be continuous vertically, as the building face is articulated up to the ninth level, where there is a modest setback created by a deck. The changes to the building design in this relatively small area of the project would not result in substantial wind energy being directed or concentrated downward to street level. Impacts would remain less than significant.
Aaron Sage, Senior Planner  
Land Use Planning Division  
2120 Milvia Street, 2nd Floor  
Berkeley, CA 94704

RE: DRAFT ENVIRONMENTAL IMPACT REPORT – 2211 Harold Way Project

Mr. Sage:

This is sent to comment on the draft EIR for the 2211 Harold Way Project. I believe the DEIR is inadequate in a number of respects.

I am a resident of Berkeley very concerned about the appropriate development of the Downtown Area. Additionally, I participate as a community member with the Safety Committee for Berkeley High School. A major focus of the BHS Safety Committee has been to study transit issues around the BHS campus in hopes of improving the safety of students, staff, parents & other visitors coming to and leaving the high school campus. Traffic congestion during BHS “rush hour” is a major concern.

In part because of our work at BHS, the failure of the DEIR to adequately address the implications of the 2211 Harold Way Project’s close proximity to a high school serving over 3,000 students is very disappointing. There are a number of deficiencies. First, the Project Description is inadequate in failing to recognize the unique nature of the setting resulting from the proximity to BHS (itself a unique school). Also, the Transportation/Traffic section does not address the unique conditions resulting from the high school’s proximate location. The DEIR should recognize that under existing conditions, traffic at a number of intersections studies are gridlocked during the time students and staff are arriving to school in the mornings Tuesday through Friday. The challenges at this time have been particularly acute along the Milvia Street Bicycle Boulevard such that ANY increase to traffic volume could very well result in safety hazards. The DEIR also should have discussed the impact to bicycle parking facilities on nearby city streets of the project. Given very high volume of pedestrian traffic during this time, potential conflicts with pedestrian walkways (i.e., crosswalks) of any increased motor vehicle usage should also have been discussed. Also, the overall traffic analysis is inadequate because the traffic counts based on estimates drawn from turning movements...
at intersections during ONE day very likely resulted in a significant underestimate of traffic.

Especially because the 2211 Harold Way Project is adjacent to two major thruways (Allston, Kittredge) used by pedestrians walking from transit (BART, AC Transit) to Berkeley High School, the DEIR should have been careful to discuss construction impacts. The construction phase could significantly interfere with BUSD obligation to facilitate student and staff safe transit to and from school. Where is construction staged? What heavy equipment will be proximate to the thruways potentially creating hazards? What are the air quality impacts of construction that could pose health hazards to students arriving to school? What are the possible construction-related toxins that students might be exposed to as they walk to school? How will pile-driving and any other construction activity avoid hazards related to the proximity of a high pressure gas line? What about significant noise impacts? How will noise & noise vibrations be abated sufficiently during school hours (note that the infill checklist mentions that noise will be abated by limiting construction to the period of 7 a.m. to 7 p.m., which is insufficient abatement since that is the time of greatest concern to teachers and students at the high school).

The DEIR should have discussed the impact of the Project on the provision of public services – police, fire and park – given the proximity to the high school and the unique need for those services required by BHS. The DEIR also should have done a better job of discussing provision of postal services given proximity to the US Post Office.

The consideration of project alternatives is also inadequate. Especially in light of concerns about impacts to scenic resources, a lower-elevation-fewer-stories project should have been considered. If a shorter building is considered somehow infeasible economically, the economic analysis should be presented in the EIR.

It is my hope that the applicant and the City will review and re-do the environmental analysis in consideration of the unique setting of the Project proximate to our very unique Berkeley High School.

Respectfully submitted,

Marjorie Alvord
Berkeley Resident
malvord@mindspring.com
Letter 9

COMMENTER: Marjorie Alvord

DATE: N.D.

RESPONSE:

Response 9.1

The commenter states an opinion that the Draft EIR is inadequate and that, in particular, the Project Description is inadequate in failing to recognize the unique nature of the project area resulting from the proximity to Berkeley High School. The location of Berkeley High School and its proximity to the project site are shown in Figure 2-2, Project Location Map, on Page 2-3 and Figure 2-10, Site and Surrounding Downtown Area Plan Land Use Classification, on Page 2-14 of the Draft EIR. The environmental impacts of the proposed project on nearby land uses, including Berkeley High School, are analyzed throughout the Draft EIR and Infill Environmental Checklist (Appendix A).

The commenter also expresses concern that traffic congestion during the “rush hour” at Berkeley High School is a major concern. The commenter states an opinion that the Draft EIR fails to adequately address the impact of the proposed project on nearby Berkeley High School. The commenter also states an opinion that the Draft EIR should recognize that under existing conditions, traffic at a number of intersections is gridlocked during the time students and staff arrive to the school in the morning. The commenter further opines that increased traffic volumes along Milvia Street Bicycle Boulevard, in particular, could result in safety hazards. The traffic impact study for 2211 Harold Way examines traffic conditions for the No Project and With Project condition during the AM Peak Hour, which overlaps with the drop-off time for Berkeley High School. The analysis also includes assessment of the level of service at several intersections adjacent to the high school for both the No Project and With Project conditions. No significant traffic impacts, per the City of Berkeley’s adopted traffic impact analysis guidelines, were identified in the Draft EIR traffic analysis at intersections located adjacent to Berkeley High School. It should be noted that although the project would add vehicle trips to streets in the vicinity, incrementally increased congestion and the associated incrementally slower traffic speeds do not typically increase safety hazards for bicyclists and pedestrians; such hazards typically increase with increased, not decreased, traffic speeds.

Response 9.2

The commenter states an opinion that the Draft EIR should have discussed impacts to bicycle parking facilities. No bicycle racks are proposed to be permanently removed as part of the proposed project. Additionally, the proposed project would provide its own bicycle parking supply (both on-site and on adjacent sidewalks) to serve anticipated bicycle parking demand generated by the project. Impacts related to alternative transportation, including bicycle facilities, are analyzed under Item XVI, Transportation/Traffic, of the Infill Environmental Checklist (Appendix A to the Draft EIR). Impacts to alternative travel modes would be less than significant.
Response 9.3

The commenter states an opinion that the Draft EIR did not discuss the proposed project’s traffic impact to pedestrian walkways. This issue is discussed under Item XVI, Transportation/Traffic, of the Infill Environmental Checklist. The traffic impact study summarized therein contains a multi-modal level of service analysis that includes analysis of pedestrian conditions using the Pedestrian Environmental Quality Index (PEQI) analysis methodology. This analysis concluded that the pedestrian elements proposed as part of the project would maintain or enhance the pedestrian environment along the streets included within the PEQI analysis.

Response 9.4

The commenter states an opinion that the traffic analysis is inadequate because the traffic counts are based on estimates drawn from turning movements at intersections during one day, and likely significantly underestimate traffic. Collection of traffic counts for the traffic impact analysis followed the City of Berkeley’s guidelines for traffic data collection, which include collection of data for a single weekday during the AM and PM peak periods. These traffic counts were conducted on a day when school was in session in order to capture school traffic in addition to other traffic (commute, etc.) occurring in the downtown area. Therefore, the traffic analysis accounts for traffic from schools in the vicinity. As discussed in the Draft EIR in Section 4.2, Transportation/Traffic, impacts would be less than significant with mitigation. Finally, as described in Section 2.0, Project Description, of the Draft EIR, the proposed project would include the installation of a speed table to calm traffic and to enhance the public right-of-way providing access to the Berkeley Central Library, the Armstrong College Property, the Library Gardens and the project site.

Response 9.5

The commenter states an opinion that the Draft EIR should have discussed construction impacts because of the project’s proximity to Allston Way and Kittredge Street, which are used by pedestrians walking from public transit to Berkeley High School. The commenter also requests details about the proposed project’s construction activities, such as where equipment would be staged and what heavy equipment would be used adjacent to thruways. Proposed project construction activity is described in Section 2.4, Project Characteristics, under the Site Preparation and Construction subheading. Not all construction details are known at this time, such as staging locations, however, all project construction activities would be conducted consistent with local, state, and federal requirements, including the Berkeley Municipal Code and applicable Occupational Safety and Health Administration regulations. In addition, the City of Berkeley, as part of its standard practice for new development, will condition the project to prepare a TMP prior to building permit issuance. This TMP would identify appropriate pedestrian detours as necessary during construction to maintain pedestrian accessibility around the project site. It should be noted that no obstruction, temporary or otherwise, would occur on the south side of Kittredge Street.

The commenter also asks how construction would impact air quality and whether it would negatively impact the health of students by exposing them to construction-related toxins. Potential air quality impacts from project construction are discussed under Item III, Air Quality,
of the Infill Environmental Checklist in Appendix A of the Draft EIR. Appendix A describes the potential air quality impacts analyzed under the DAP EIR, and required mitigation, which includes required buffers between potential sources of toxic air contaminants and sensitive land uses, and Bay Area Air Quality Management District (BAAQMD)-recommended measures to Control particulate matter emissions during construction. The project-specific air quality analysis in Appendix A quantifies anticipated criteria pollutant emissions associated with the proposed construction activity, and compares these emissions to applicable BAAQMD thresholds, to determine that project construction emissions would not result in a significant impact to local or regional air quality. In addition, potential hazardous impacts related to construction are discussed under Item VIII, Hazards and Hazardous Materials, of the Infill Environmental Checklist and were found to be less than significant with required adherence to standard conditions of the City of Berkeley’s Toxics Management Division.

The commenter expresses concern that pile-driving and any other construction activity may pose hazards related to the proximity of high pressure gas lines. As noted in Section 2.4, Project Characteristics, pile-driving would not be required; rather, a mat foundation (a type of continuous thick-slab foundation supporting the entire structure) varying from approximately three to six feet in thickness is proposed. Standard construction practices include surveying for gas lines and turning them off or avoiding them during construction.

The commenter also states an opinion that noise and vibration impacts are inadequately abated in the Draft EIR because limiting construction to the period of 7:00 a.m. to 7:00 p.m. would not reduce noise impacts to students and staff at Berkeley High School. Potential noise and vibration impacts from project construction are discussed in Section XII, Noise, of the Infill Environmental Checklist. The Checklist describes the potential noise and vibration impacts analyzed under the DAP EIR, and required mitigation, which includes site-specific noise reduction programs and noise abatement measures during construction (e.g., time limits for construction and technically and economically feasible controls to meet the requirements of the Berkeley Municipal Code), and avoidance of pile-driving/site-specific vibration studies/monitoring/contingency planning. As noted in Section 2.4, Project Characteristics, pile-driving would not be required. Based on the Berkeley Community Noise Ordinance and the analysis in the DAP EIR, Appendix A indicates that construction noise impacts at land uses surrounding the project site would not exceed those anticipated in the DAP EIR, and construction vibration impacts would be less than significant. In addition, Berkeley High School is a minimum of 400 feet from the project site, and line-of-sight between what would be the lower portion of the building (where much of the higher noise-generating operations, such as excavation and foundation pouring, would take place) and Berkeley High School is almost entirely occluded by intervening buildings, which would provide a substantial attenuating effect on noise associated with construction activity at the project site. Based on the distance between the project site and Berkeley High School and the surrounding land uses, as well as noise- and vibration-attenuating measures required by the DAP EIR, no significant noise or vibration impacts would occur at Berkeley High School as a result of the proposed project.

Response 9.6

The commenter states an opinion that the Draft EIR did not discuss the impact of the proposed project on the provision of public services to Berkeley High School. The commenter further opines that the Draft EIR should have analyzed the impact to postal services, due to the
proximity of the project site to the U.S. Post Office. Potential public service impacts from the proposed project are discussed under Item XIV, Public Services, of the Infill Environmental Checklist. The Checklist describes the potential impacts related to fire protection and emergency medical services, police protection, schools, parks, library services, and health and human services. Impacts to Postal Services are not considered to be significant impacts on the environment and accordingly were not included. The commenter does not explain how provision of public services specifically to Berkeley High School may be affected or what those impacts might be. The High School would remain fully accessible to emergency vehicles from multiple access routes.

Response 9.7

The commenter states an opinion that the project alternatives in the Draft EIR are inadequate. The commenter opines that due to impacts to scenic resources, a project alternative with a lower elevation and fewer stories should have been considered. Please see Topical Response B, Westward View from Campanile Way, for a response to these comments. The commenter suggests that if a shorter building is considered economically infeasible, the economic analysis should be presented in the Final EIR. The CEQA Guidelines do not require analysis of the economic impacts of a project unless they would result in a physical effect on the environment (for example, result in blight). Nevertheless, the commenter’s concerns in this regard will be forwarded to the City’s decision makers for their consideration.
Dear Mr. Sage,

Please do not obstruct the view from Campanile way, tear down the Shattuck cinema, and change the fabric of our community.

Sincerely,

Nicholas Arzio  
10026 San Pablo Ave.  
Berkeley, CA 94530  
510-815-3216
Letter 10

COMMENTER: Nicholas Arzio

DATE: November 30, 2014

RESPONSE:

Response 10.1

The commenter requests that the view from Campanile Way not be obstructed and that the Shattuck Cinemas not be demolished, as this would change the fabric of the community. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR. Nevertheless, the commenter’s concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.
From: Carol Berkenkotter [mailto:berkenkotterc@gmail.com]
Sent: Monday, December 01, 2014 9:10 AM
To: Sage, Aaron E.
Subject: Comments re.DEIR for 2211 Harold Way

Aaron Sage, Senior Planner

Dear Mr. Sage,

I am a Berkeley resident who would like to voice my concern about the conclusion in the Draft EIR report that partially obscuring the view from The Campanile to the Golden Gate Bridge is "less than significant". I live in the area south UC and frequently walk through the campus. To look down Campanile Way to the Golden Gate is truly an inspiring view. Not only does looking down Campanile Way explain and form the spine of the campus design, it also orientates one to the geography and the nature of the whole Bay area. When visitors come to Berkeley, this view is a highpoint in introducing the area. To partially obscure this view would be a great cultural loss to the Berkeley community. To say, as the Draft EIR does, that since architectural elements on campus are not changed, the view change is "less than significant" is missing the point. The point is the view and how it relates to our local history and geography.

As I understand the plan, if the building which is most northern where redesigned and reduced in height, it would be possible to have a project which does not impede the view. This would be a great improvement. Thank you for your attention. Carol Berkenkotter

11.1

11.2
Letter 11

COMMENTER: Carol Berkenkotter

DATE: December 1, 2014

RESPONSE:

Response 11.1

The commenter discusses the westward view from Campanile Way and expresses concern regarding the Draft EIR conclusion that the impact to the view would be less than significant. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 11.2

The commenter suggests that the proposed project would be improved if it were reduced in height so that the view was not obstructed. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR. Nevertheless, the commenter’s concerns regarding this issue will be forwarded to the City’s decision makers for their consideration.
Hello.

I have reviewed the plans and impact study.
I reside in Berkeley and have for many years since the mid-70's with one departure in the mid 80's; however, I returned to the same apt I have lived in since 1979 on MCKINLEY AVE near Allston Way.

The downtown is part of my "neighborhood."
I can walk to the movies and the post office etc.

The impact of recent building projects greatly changes the quality of living in Berkeley because of the increased population for instance in an already over crowded area due to the University students and homeless population in our downtown. The loss of the HISTORICAL BUILDINGS is very sad.

IS there no respect to remember what was once the FACE OF Berkeley, CA in its center?

IS there no respect for history?

IS there no respect for the quality of living vrs the BIG BUCKS to sell and diminish quality of life?

THE SKY SCRAPER image is not what I want nor vote for.

SAVE THE CINEMAS !!
Letter 12

COMMENTER: Patricia Bulitt

DATE: December 1, 2014

RESPONSE:

The commenter states an opinion that recent building projects have increased population and thus impacted the quality of life in Berkeley, which is already overcrowded due to a large University student and homeless population. Impacts related to population are discussed under Item XIII, Population and Housing, of the Infill Environmental Checklist. Project-related impacts were determined to be less than significant.

The commenter expresses concern that a historic building would be lost, and states an opinion that the project would be disrespectful of Berkeley’s history and quality of life. The commenter requests that the cinema be saved, and states opposition to the project. These comments are noted, but do not conflict with, question or challenge the analysis and conclusions of the Draft EIR. The comments will be forwarded to the City’s decision makers for their consideration during their review of the project.
Dear Mr. Sage,

I am co-chair of the Berkeley High School (BHS) Safety Committee and am writing to oppose the 2211 Harold Way Project on the basis of an incomplete and critically deficient EIR. I am very concerned that the 2211 Harold Way Project will have a severe and adverse impact on neighboring Berkeley High School. BHS is the Berkeley’s only public high school, and has well over 3,000 students, who arrive each morning from every community in Berkeley. BHS is less than 500 feet from 2211 Harold Way. It is a 2-minute walk from Harold Way. Our 3,000 plus students travel to school each morning by bike, car, bus, or on foot on streets that surround the Harold Way project, and on Harold Way, itself. Harold Way, Allston, Shattuck, and Kittredge streets figure prominently in the student commute to school. The main school entrances on Milvia and Allston streets are in close proximity to the construction site. There are a significant number of BHS classrooms along Milvia street that could be impacted by noise for years. Yet nowhere, in the entire draft EIS, is there any mention of the project’s impact on BHS, and the health, safety and welfare of BHS students. Nowhere, for example, does the EIR address the project’s impact on the traffic flow and traffic congestion around BHS, or access to the school’s main entrances and drop off zones during construction, or on the air quality, noise, aesthetics, heating, cooling, and lighting of nearby Berkeley High School.

Specifically, potential impacts include, but are not limited to:

1. Construction noise that disrupts classes in nearby classrooms on Milvia street, particularly those in the BHS “M” building;
2. Construction noise that impacts outdoor student events on BHS campus;
3. Construction that significantly blocks the streets adjacent to BHS, thereby increasing congestion in an already congested area and imperiling the safety of students who walk, bike, and ride to school on the streets common to BHS and the Harold Way Project en route to school;
4. Construction that significantly blocks the streets adjacent to BHS, thereby significantly decreasing accessibility, including handicap accessibility, to the school’s major drop off zone on Milvia, and also increasing the vehicle miles traveled for cars approaching the school’s major drop off zone on Milvia, particularly at the Milvia/Kittredge, Milvia/Allston intersections;
5. Construction that makes it unsafe for students who bike to school, and that decreases accessibility of the bike lane on Milvia via Kittredge and other streets near the 2211 construction zone;
6. A significant increase in overall traffic congestion around BHS after project completion that further complicates an already difficult commute to and from school, and imperils the safety of students who must navigate the roads common to BHS and the Harold Way Project in the morning, at lunch, and after school, whether they walk, bike, or ride in cars;
(7) a significant increase in overall traffic congestion around BHS both during and after project completion that further complicates an already difficult morning commute to school and will increase the tardiness of students by making it more difficult to access streets leading to school entrances—streets common to BHS and the Harold Way Project (feeder streets to the school’s two main entrances on Milvia are directly impacted by 2211 Harold Way Project construction);

(8) an increase in pollutants and/or other hazards around BHS given its proximity to the Harold Way project;

(9) impact on the natural lighting for the school, and the heating and cooling of the school due to size of the nearby project;

(10) increase in particulate dust etc. during project construction in the vicinity of BHS, particularly on BHS athletic fields.

All impacts on BHS must be specifically addressed and mitigated before this project should go forward. Without a complete and thorough impact analysis on Berkeley High School, the EIR is deficient. BHS faces four different streets, and has four main entrances—three of which stand to be directly impacted by the project. Please know that BHS already has urgent issues related to getting students to school safely and on time. The BHS Safety Plan—a State-required, District-approved document—has a specific goal to improve pedestrian, bicycle, and traffic safety around the school for this reason. The BHS Safety Committee—composed of school parents, administrators, student, and community members—work hard on this safety goal at every meeting, given its importance, and has raised these issues with the City of Berkeley. The 2211 Harold Way Project will unacceptably exacerbate the current traffic, pedestrian, and bicycle safety problem, unless substantially mitigated. The project stands to slow and restrict access to the school. The project stands to increase the intensity of vehicle use around the school unless the area is vastly improved for walk, bike, and transit, with added transportation demand management, and will result in a significant increase in Vehicle Miles Traveled, both during and after construction. A thorough walk audit done with our School Safety Committee, the BHS administration, and the City of Berkeley, and California Walks, among others, will help demonstrate that the planners can mitigate the risks the project will create.

Possible mitigation measures/and additions for the EIR for the traffic issue include, but are not limited, to:

(1) Construction of new drop off zones (8 a.m. to 9 a.m.) for students on the park side of Allston and on both sides of MLK, with appropriate high-visibility (flashing beacon) cross walks, new signage for school zones and cross walks, and engineering designs appropriate to direct and slow traffic in school zones, and make mid-block cross walks safer for students;

(2) Construction of alternate bike lane routes;

(3) Reducing congestion by ensuring that AC Transit changes its bus schedules so that the bus schedules from all parts of the city are in sync with the BHS morning school bell;

(4) Eliminating other factors which block street access to school for bike riders (e.g. garbage truck pick ups from 8 to 9 a.m. on Allston).
Please also know that our Safety Plan has a goal to address particulate, noise, and other pollutants and toxics that can affect the health, safety, and welfare of the school community. I am likewise concerned that the EIR does not address these issues with respect to BHS --and the other schools, such as Washington Elementary School-- that sit in extremely close proximity to the construction site.

Thank you for ensuring this comment is timely included in the public review of the Draft EIR for the 2211 Harold Way Project.

Thank you,
Enid Camps
Co-chair BHS Safety Committee
enidcamps@comcast.net

Grady Camps
Student, BHS
gradycamps@students.berkeley.net
Letter 13

COMMENTS: Enid Camps and Grady Camps

DATE: December 1, 2014

RESPONSE:

Response 13.1

The commenter states opposition to the proposed project and an opinion that the Draft EIR is incomplete and deficient. The commenter opines that the Draft EIR fails to analyze impacts of the proposed project on the health, safety, and welfare of Berkeley High school students. The commenter further asserts that the Draft EIR fails to analyze the impacts of the proposed project on traffic flow and traffic congestion around Berkeley High School and access to the school’s main entrances and drop off zones during construction. The traffic impact study for the project (Appendix C to the Draft EIR, and summarized in Section 4.2) examines traffic conditions for the No Project and With Project condition during the AM Peak Hour, which overlaps with the drop-off time for Berkeley High School. The analysis also includes assessment of the level of service at several intersections adjacent to the high school for both the No Project and with Project conditions. Based on the City of Berkeley’s adopted traffic impact analysis guidelines, no significant traffic impacts were identified in the Draft EIR traffic analysis at intersections located adjacent to Berkeley High School. Construction activities would occur on or adjacent to the project site and are not anticipated to impact student drop-off facilities on Milvia Street or Allston Way.

The commenter also states an opinion that the Draft EIR fails to analyze the impacts of the proposed project on the air quality, noise, aesthetics, heating, cooling, and lighting of the nearby Berkeley High School. As discussed in Response 9.5, above, as well as Responses 13.2 and 13.5, below, potential air quality and noise impacts from project construction are discussed in Item III, Air Quality, and Item XII, Noise, respectively, of the Infill Environmental Checklist (Appendix A to the Draft EIR). Impacts to local and regional air quality were found to be less than significant, and impacts to noise at land uses surrounding the project site during construction were found not to exceed those anticipated in the DAP EIR. The proposed project would not result in impacts to shading, heating or cooling at the High School as it is over 400 feet away and separated also by intervening buildings. Shadows from the project would not reach the High School, as shown on figures 32 and 33 of the Infill Environmental Checklist. Aesthetic impacts are discussed under item I, Aesthetics, of the Checklist.

Please also see the responses to Letter 9, above.

Response 13.2

The commenter states an opinion that the Draft EIR fails to analyze the impact of construction noise on classes in classrooms located near Milvia Street, such as the Berkeley High School “M” Building, and outdoor student events on the campus. Potential noise impacts from project construction are discussed in Section XII, Noise, of Appendix A of the Draft EIR. Appendix A describes the potential noise impacts analyzed under the DAP EIR, and required mitigation,
which includes site-specific noise reduction programs and noise abatement measures during construction (e.g., time limits for construction and technically and economically feasible controls to meet the requirements of the Berkeley Municipal Code). Based on the Berkeley Community Noise Ordinance and the analysis in the DAP EIR, Appendix A indicates that construction noise impacts at land uses surrounding the project site would not exceed those anticipated in the DAP EIR. In addition, Berkeley High School is a minimum of 415 feet from the project site, and line-of-sight between what would be the lower portion of the building (where much of the higher noise-generating operations, such as excavation and foundation pouring, would take place) and Berkeley High School is almost entirely occluded by intervening buildings, which would provide a substantial attenuating effect on noise associated with construction activity at the project site. Based on the distance between the project site and Berkeley High School and the surrounding land uses, as well as noise- and vibration-attenuating measures required by the DAP EIR, no significant noise or vibration impacts would occur at Berkeley High School as a result of the proposed project.

Please also see the responses to Letter 9, above.

**Response 13.3**

The commenter states an opinion that the Draft EIR fails to analyze the impact of construction on traffic congestion adjacent to Berkeley High School and subsequently, the safety of students who walk, bike, and ride to school on the streets shared by Berkeley High School and the proposed project. In particular, the commenter notes that construction impacts may make it unsafe for students who bike to school by decreasing accessibility to local bike lanes. The commenter also opines that the Draft EIR fails to analyze the impact of construction on accessibility, including handicap accessibility, to Berkeley High School’s major drop off zone on Milvia Street and fails to discuss how impacts to accessibility may increase the vehicle miles traveled by cars approaching the school.

Construction activities would occur on or adjacent to the project site and are not anticipated to impact student drop-off facilities on Milvia Street or Allston Way. It is not anticipated that construction activities would block streets adjacent to Berkeley High School (MLK Way and Milvia Street between Allston Way and Channing Way, and Allston Way and Channing Way between MLK Way and Milvia Street). Furthermore, the City requires a TMP for any construction activity within the public right-of-way, and verifies through the TMP review process that no significant impacts to the safety or mobility of pedestrians, bicyclists or motorists will occur. This TMP would identify appropriate detours as necessary during construction to maintain traffic accessibility around the project site should construction activities result in temporary closures of Allston Way or Kittredge Street. This TMP would also identify appropriate bicycle detours as necessary during construction to maintain bicycle accessibility around the project site. As Berkeley High School would still be accessible via multiple access points and public streets, vehicle miles traveled for those accessing the high school would not be expected to increase enough to result in significant environmental impacts.

Please also see the responses to Letter 9, above.
Response 13.4

The commenter states an opinion that the Draft EIR fails to analyze the impact of the proposed project on traffic congestion around Berkeley High School after project completion or the impact of the proposed project on the safety of students and the ability of students to make it to school on time, potentially increasing tardiness. As noted in Response 13.1, the traffic analysis assessed level of service for study intersections in the No Project and With Project conditions. One significant impact was identified at the intersection of Shattuck Avenue and Durant Avenue. This significant impact has an identified mitigation measure that would address the identified impact and reduce the impact to a less than significant level. The commenter does not describe how the project would affect traffic safety. Impacts in this regard would be less than significant, as described in the Infill Environmental Checklist under items VIII, Hazards and Hazardous Materials, and XVI, Transportation/Traffic. Please also see the responses to Letter 9, above.

Response 13.5

The commenter opines that the Draft EIR fails to analyze the impact of the proposed project on pollutants and hazards around Berkeley High School. Potential air quality impacts from project construction are discussed under Item III, Air Quality, of the Infill Environmental Checklist in Appendix A of the Draft EIR. The Checklist describes the potential air quality impacts analyzed under the DAP EIR, and required mitigation, which includes required buffers between potential sources of toxic air contaminants and sensitive land uses, and Bay Area Air Quality Management District (BAAQMD)-recommended measures to Control particulate matter emissions during construction. The project-specific air quality analysis in the Checklist quantifies anticipated criteria pollutant emissions associated with the proposed construction activity, and compares these emissions to applicable BAAQMD thresholds, to determine that project construction emissions would not result in a significant impact to local or regional air quality. In addition, potential hazardous materials impacts related to the proposed project are discussed under Item VIII, Hazards and Hazardous Materials, of the Infill Environmental Checklist. Hazardous materials impacts related to construction were found to be less than significant with compliance to standard conditions of the City of Berkeley’s Toxics Management Division. Please also see the responses to Letter 9, above.

Response 13.6

The commenter re-states an opinion that the Draft EIR fails to analyze the impact of the proposed project on natural lighting, heating and cooling at Berkeley High School. Refer to Response 13.1 above.

Response 13.7

The commenter opines that the Draft EIR fails to analyze the impact of the proposed project’s construction on particulate dust levels at Berkeley High School, particularly on athletic fields. Potential air quality impacts from project construction are discussed under Item III, Air Quality, of the Infill Environmental Checklist. It describes the potential air quality impacts analyzed under the DAP EIR, and required mitigation, which includes and Bay Area Air Quality Management District (BAAQMD)-recommended measures to Control particulate matter emissions during construction. The project-specific air quality analysis in the Checklist
quantifies anticipated criteria pollutant emissions associated with the proposed construction activity, and compares these emissions to applicable BAAQMD thresholds, to determine that project construction emissions would not result in a significant impact to local or regional air quality. Please also see the responses to Letter 9, above.

Response 13.8

The commenter re-states an opinion that the Final EIR must specifically analyze and mitigate the impacts of the proposed project on Berkeley High School before the proposed project is approved. The commenter opines that Berkeley High School has entrances on three streets that would be impacted and that the proposed project would unacceptably exacerbate the current traffic, pedestrian, and bicycle safety problems, unless substantially mitigated. As noted in Response 13.1, the traffic analysis assessed level of service for study intersections in the No Project and With Project conditions. One significant impact was identified at the intersection of Shattuck Avenue and Durant Avenue. This significant impact has an identified mitigation measure that would address the identified impact and reduce the impact to a less than significant level.

The commenter also states that the Berkeley High School Safety Plan, which is a State-required, District-approved document, has a specific goal to improve pedestrian, bicycle, and traffic safety around the school due to school’s existing issues related to getting students to school safely and on time. As noted in Response 13.1, no significant traffic impacts are identified for study intersections adjacent to Berkeley High School or to pedestrian and bicycle circulation. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

The commenter goes on to recommend several traffic-related mitigation measures. These suggestions are acknowledged. However, as noted in Response 13.1, no significant traffic impacts are identified for study intersections adjacent to Berkeley High School or for pedestrian or bicycle circulation or transit service; therefore additional mitigation measures are not required. The Draft EIR identified one significant traffic impact at the intersection of Shattuck Avenue and Durant Avenue. This significant impact has an identified mitigation measure that reduces the impact to a level that is less than significant.

Response 13.9

The commenter refers to the Berkeley High School Safety Plan’s goal to address particulates, noise, and other pollutants and toxics that can affect the health, safety, and welfare of the school community. The commenter expresses concern that the Draft EIR does not address these issues with respect to Berkeley High School and Washington Elementary School, which is approximately 1,000 feet from the project site and on the far (east) side of Berkeley High School. As discussed in Response 9.5, 13.2, and 13.5 above, potential air quality, toxics and noise impacts from project construction are discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR). Impacts in these issues areas were found to be less than significant. Please also see the responses to Letter 9, above. Although no changes to the EIR are warranted based on these comments, the commenter’s concerns will be forwarded to the City’s decision makers for their consideration during their review of the project.
I am writing to express my deep distress with your plan for an 18 story mixed use high rise at 2211 Harold. For the past thirty years I have spent time daily on Harold, Allston, Kittredge. Downtown Berkeley is my home. This 18 story high building will kill the ambiance of downtown Berkeley completely. The amount of traffic, both pedestrian and vehicle traffic, is often at gridlock already. You will kill the "there" there in downtown Berkeley. I see the many problems in downtown Berkeley that need to be addressed but this is all the wrong approach. This is the fastest way to kill any sense of community (just on the verge of changing for the better). I am deeply disappointed in Berkeley and the amazingly negative building proposed. Can it be that noone who voted for it lives in downtown Berkeley? Please please please reconsider. Susan Carlson 510 8614266.
Letter 14

COMMENTER: Susan Carlson

DATE: November 13, 2014

RESPONSE:

The commenter states an opinion that the proposed project will “kill” the ambience of and sense of community in downtown Berkeley, and exacerbate issues of pedestrian and vehicle traffic. See Response 9.3 for discussion concerning pedestrian impacts and Response 6.2 for discussion concerning vehicle traffic impacts. Impacts related to these issue areas are discussed in the Infill Environmental Checklist and the Section 4.2 of the Draft EIR, and were determined to be less than significant or less than significant with mitigation identified. The commenter does not provide specific information or analysis to challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.
From: Dawn DelMonte [mailto:ddelmonte@comcast.net]
Sent: Monday, December 01, 2014 10:08 AM
To: Sage, Aaron E.
Subject: 2211 Harold Way Project

Aaron Sage, Senior Planner
City of Berkeley Zoning Department

Mr. Sage,

Please do not approve the DEIR development of 2211 Harold Way. There are several serious problems with this development plan, including the following, stated by Don Goldmacher in his email to you:

The developer touts that he is providing significant community benefits in this project. But as one drills down deeper into the language written by the developer, it becomes clear that the critical issue of affordable housing is glossed over, with the implication that the developer will pay money to the city housing trust, in lieu of actually building affordable housing. This clearly indicates that this project is not intended to create new affordable housing, but instead create expensive high-rise condo units, similar to what is taking place in other cities across the country, and is wrapped in a green wash ribbon. This is not something that the citizens of Berkeley actually wanted when they were misled into voting No on measure R. It is instructive to see who were the major donors opposing measure R. They of course include all of the real estate developers who are either planning or developing projects in the city of Berkeley. What is a bit startling is that the current mayor of Berkeley loaned $10,000 to the No campaign. This shows how deeply intertwined real estate developers are with the mayor and several city Council members, and is a poor reflection on our democracy. Additionally, major funds were provided to this negative campaign by the Chicago Board of Realtors. One can only guess why this entity would spend money in the city of Berkeley. Perhaps it has to do with the fact that Sam Zell lives in Chicago, as he buys up properties here in Berkeley California.

This obvious giveaway to corporate developers would be a travesty.

Dawn DelMonte
ddelmonte@comcast.net

--
"Another world is not only possible, she is on her way. On a quiet day, I can hear her breathing." - Arundhati Roy
"We did then, what we knew how to do. Now that we know better, we do better." - Maya Angelou
"A Patriarchal culture trains boys to be narcissistic and girls to be co-dependent." - Jean Shinoda Bolen
Letter 15

COMMENTER:  Dawn DelMonte

DATE:  December 1, 2014

RESPONSE:

The commenter states opposition to the proposed project. This comment is noted. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

The commenter also quotes a section of Letter 28. Please see responses to Letter 28 for responses to these comments.
From: Harris, Leslie D. On Behalf Of City Clerk
Sent: Monday, November 17, 2014 8:05 AM
To: Zoning Adjustments Board (ZAB)
Subject: FW: 18 story building proposed in Berkeley

-----Original Message-----
From: julianna dickey [mailto:julianna@lmi.net]
Sent: Saturday, November 15, 2014 2:32 PM
To: City Clerk
Subject: 18 story building proposed in Berkeley

Dear Berkeley Zoning Board,

I heard of the plan to build a 302 unit apt/condo building, 18 stories high in Berkeley around the area of the Landmark Shattuck Theater only last night.

At the very least the citizens of Berkeley need a chance to have their voices heard about this. Please extend the comment time until December 19.

Thank you.

Julianna S. Dickey
Berkeley
Letter 16

COMMENTER: Julianna S. Dickey

DATE: November 15, 2014

RESPONSE:

The commenter requests that the Draft EIR public comment period be extended to December 19, 2014. This comment is noted. The comment period began on October 3, 2014 and was extended to 57 days (12 more days than the 45 days required by CEQA), and ended on December 1, 2014. Nevertheless, the commenter’s request for a longer comment period will be forwarded to the City’s decision makers for their consideration during their review of the project. It should be noted that pursuant to Section 15105 of the CEQA Guidelines, the public review period for a draft EIR “shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances.”
Hello, Mr. Sage,

I am a Berkeley resident who wishes to protest the demolition of the Landmark Theatre on Shattuck. This is an important cultural hub for the city, particularly along Shattuck, and draws people in from all surrounding areas. It is a source of income, pride and activity for all our communities.

There needs to be an extended period of public discussion before Development Plan 2211 Harold Way goes into effect.

Thank you for your attention to this.

Sincerely,

Julianna S. Dickey
Letter 17

COMMENTER: Julianna S. Dickey

DATE: November 30, 2014

RESPONSE:

The commenter states opposition to the removal of the Shattuck Cinemas. Please see Topical Response D, Demolition of the Shattuck Cinemas, for information on this topic.

The commenter also requests an extended comment period for the project. Please see Response 16.
From: Erin Diehm <erindiehm@hotmail.com>
Date: November 30, 2014 at 11:24:10 PM PST
To: "asage@cityofberkeley.info" <asage@cityofberkeley.info>
Cc: Erin Diehm <erindiehm@hotmail.com>
Subject: Public Comment on DEIR 2211 Harold Way

November 31, 2014

RE: DEIR of 2211 Harold Way Project

As a Berkeley resident I am deeply concerned about the proposed development at 2211 Harold Way and especially about the detrimental effect destroying the Shattuck Cinemas Movie Theater will have on our community and local businesses. I have personally gathered 500 written petition signatures in front of the Shattuck theater and I can tell you that patrons LOVE this movie theater, they come from all over the Bay area to watch movies here, they love the design of the theaters, its atmosphere, the quality movies, and they don’t want to the theater replaced.

I have 5 concerns I’d like to share.

1. KEEP THE 1980s “MOVIE PALACE” — IT MAKES PEOPLE FEEL LIKE ROYALTY

Just because the movie theater was built in 80s doesn’t mean it should be destroyed. Our own local architect William Simpson from Orinda (http://orindaarchitect.com/theater.htm) and the local businessman Allen Michaand (http://www.michaans.com/theater.php#.VHu1Rr5H0y4) took great effort to turn the vacated Hink’s into a beautiful, cultural resource. The building was seismically retrofitted and Michaand invested heavily to recreate a 1920s movie palace — with 2 of the 10 theaters in the Egyptian style and 2 in the Moorish. It’s important to note the effect that these kinds of palaces have on people — per the advertisements of the 1920s, they were constructed to “make the average citizen feel like royalty.” Isn’t that how we want our hard-working citizens to feel? like royalty! This may be the only 10-screen multiplex “movie palace” in the United States and it should be preserved. It has its own, unique artistic merit and destroying it would negatively impact the cultural heritage of Berkeley.

2. QUESTION THE VIABILITY and FOCUS OF PROPOSED REPLACEMENT THEATER

As I collected signatures and patrons learned they will lose the existing venue, they respond with surprise, sadness, and concern. They literally plea, “but, this is where they show the GOOD movies!” People value the broad selection of quality films Landmark promotes and they travel to Berkeley from all around the Bay area (and beyond) to spend their dollars here, on dinner and a movie they can’t see in their local “state of the art” multiplex.

I realize the developer is now promising to build 6 “state of the art” movie theaters, and that they claim to be working closely with Landmark, but there are 3 reasons why the new theaters are not a viable alternative.

First, the lease price will increase dramatically, up to 350%. Per the developer’s “Community Benefits” statement, Landmark currently pays $2/sq ft. The developer says he’ll “subsidize” the higher rent, cutting it from the anticipated (new) $6.50 to $3.50/sq ft (but, it’s important to note although he claims a $19M benefit, he doesn’t guarantee the reduced price for the 20 year period)(pg. 22, in 2014-10-20_RESUB_CommunityBenefits_2211 Harold.pdf). The increased rental cost will be passed on to the consumer in the form of higher ticket prices and concessions. Higher ticket prices will drive away customers — people will simply stay at home to watch their movies on Netflix. Both the movie theater and local restaurants will lose, negatively impacting the local economy.

Second, the theater will be in an undesirable space — the basement. Who wants to watch a movie in the basement? As I’ve collected signatures outside the theater, I tell patrons the developer is proposing this new
location and many of them respond negatively. Several have even said that other theaters have tried this approach and failed. It’s not an apples-to-apple comparison. People simply don’t want to watch movies below grade.

Third, the theater will be out of commission for however long the construction takes. 3 years? 4 years? longer? Those patrons who come specifically to Berkeley to see “the good movies” will go somewhere else. They’ll develop new habits, find new favorite restaurants, and we will lose them, possibly forever — this loss would be a serious detriment to the economic health of our downtown.

3. THE DEVELOPMENT WILL HARM LOCALLY OWNED BUSINESS

With higher rent rates, the new development will contribute to the loss of essential services and local businesses in our downtown. Per the developer’s “Community Benefits” statement, they expect a rate of return of at least 6.25-6.50% (pg. 21, in 2014-10-20_RESUB_CommunityBenefits_2211 Harold.pdf). The cost of this return is incorporated and passed on through increased lease rates. Small local mom-and-pops won’t be able to afford the higher rents, leaving only larger companies with deeper pockets to fill these spaces. I am deeply concerned the new building will price-out our local businesses and replace them with national chains, ultimately changing downtown Berkeley into something like Emeryville.

4. THE DEVELOPMENT WILL HARM THE HISTORIC VIEW OF CAMPANILE WAY

The view from the Campanile Way is a historic treasure, part of Berkeley’s cultural heritage dating back to 1873, and should be protected. We owe it to future generations to think 50-, 100-, even 150-years into the future. And we need to respect and appreciate the genius of the original campus planners.

Each year thousands of visitors stand at the base of the Campanile on the UC Berkeley campus, taking photos and admiring views of Alcatraz Island, the Golden Gate, and the Bay. The proposed 18-story building will partially obstruct this unique view. We need to ask the developer to rework the plans to reduce the height so this treasured, historic view remains intact. We have only one chance to get this right. Once the building is built, it will be very difficult to repair its mistakes.

5. THE DEVELOPMENT WILL DESTROY THE CHILDREN’S “TRIANGLE”

As we learned at the November 13th Zoning Board meeting, Habitot is being evicted. The loss of this children’s museum will destroy an important “triangle” that many parents traverse each week with their children: YMCA - Habitot - Library. Habitot is currently asking the developer for funds to partially subsidize their relocation fees. However, we need to go one step further. We need to ask the developer to put their money where their mouth is. If they truly care about our community and want to offer real community benefits, they need to make space in the new building to accommodate Habitot, to allow this important family and cultural resource to stay in place. The City of Berkeley needs to do everything in its power to support parents’ ability to walk with their children between the YMCA-Habitot-Library.

In sum, I believe the proposed development at 2211 Harold Way will negatively impact downtown Berkeley. We need to ask the developer to go back to the drawing board, to rework the plans to keep the current movie theater, to maintain the historic view of the Campanile Way, and to promote local business (including the Habitot museum). They need to focus more on Community Benefit for the entire community, and not just for the proposed tenants of the building.

Regards,

Erin Diehm, Ph.D.
2316 Jefferson Ave
Berkeley, CA 94703
erindiehm@hotmail.com
Letter 18

COMMENTER: Erin Diehm, Ph.D.

DATE: November 30, 2014

RESPONSE:

Response 18.1

The commenter discusses the history of the Shattuck Cinemas and states opposition to its removal as part of the proposed project. Please see Topical Response D, Demolition of the Shattuck Cinemas, for responses and information on this topic. In addition, this comment partially pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 18.2

The commenter states an opinion that the developer’s promise to build 6 movie theaters is not a viable alternative because the lease price would increase 350%, the new theater would be located in an undesirable basement location, and due to construction the theater would be out of commission for years. Please see Topical Response D, Demolition of the Shattuck Cinemas, for responses and information on this topic. The commenter states an opinion that the loss of patrons visiting the theater would negatively impact the economic health of the downtown area. This comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 18.3

The commenter states an opinion that the proposed project will contribute the loss of essential services and local business in the downtown area. This comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 18.4

The commenter states opposition to the proposed project’s intrusion into the view from Campanile Way. The commenter requests that the developer reduce the height of the proposed project so the view remains intact. Please see Topical Response B, Westward View from Campanile Way, for responses to these comments.

Response 18.5

The commenter states an opinion that the loss of the Habitot Children’s Museum from the project site would result in the destruction of the “children’s triangle,” three local sites (YMCA,
Habitot, and the Library) that parents visit with their children. The commenter requests that the developer dedicate a space in the proposed project to accommodate Habitot because it is an important family and cultural resource. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR. The loss of Habitot is a socioeconomic, rather than an environmental issue; therefore no changes to the EIR are warranted. Nonetheless the comment is noted and will be forwarded to the City’s decision makers for their consideration.
To the Zoning Adjustments Board:
I have lived in Berkeley for nearly 50 years — 22 as a renter and 27 as a home owner.
I have rarely, or perhaps never, opposed development in Berkeley.
We have to have development, reasonable development.
But this enormous 18-story building proposed for 2211 Harold Way isn’t reasonable. It doesn’t fit, and it’s destructive.
As I understand it, it will shut down the Shattuck Cinema’s 10 screens for several years, and maybe then there will be six screens — if Landmark can afford the new rent. I wouldn’t count on it.
Is this contributing to the culture of Berkeley?
Who will stay in the Shattuck Hotel, or what’s left of it, with that massive project being constructed?
I hear that views of the bay from the Campanile will be blocked. Is that true?
Affordable housing? A few units perhaps, but I’m guessing mostly very expensive condos. For whom?
Is 18 stories going to be the new normal for downtown Berkeley. Even if that’s so — and I hope it isn’t — this wouldn’t be a good start.
My first thought when I saw the notice for a hearing about an 18-story building was: This is a joke by one of those extreme anti-development people.
Turned out I was terribly wrong.
But there must be some reason to construct such a monstrosity.
Someone, or someones, would make a lot of money — and not just a few million dollars.
Can I have some, please?
Better still, please say no to this project.
With thanks for your consideration,
Lewis Dolinsky

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Lewis Dolinsky
Box 184
Berkeley CA 94701
Phone: 510-2049500
Fax: 510-8455147
ldolinsky@earthlink.net
Letter 19

COMMENTER: Lewis Dolinsky

DATE: December 1, 2014

RESPONSE:

Response 19.1

The commenter states opposition to the propose project, opining that it does not fit in the context and is destructive. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. See also Topical Response A, Project Visual and Historic Compatibility Impacts, for further information.

Response 19.2

The commenter states an opinion that it is unlikely that Landmark Theatres (the operator of the Shattuck Cinemas) would be able to afford the rent of the new theaters that would be constructed by the proposed project. The commenter questions the proposed project’s contribution to the culture of Berkeley and whether anyone would stay in the Shattuck Hotel as the proposed project is being constructed. These comments do not conflict with, question or challenge the analysis and conclusions of the Draft EIR, and do not pertain directly to environmental issues, but are noted and will be forwarded to the City’s decision makers for their consideration.

Response 19.3

The commenter asks if views of the bay from Campanile Way would be blocked and whether there would be affordable housing in the proposed project. This issue is discussed in the Draft EIR in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in the Draft EIR in Section 4.1, Cultural Resources. Impacts would be less than significant. See Topical Response B, Westward View from Campanile Way, for more information.

Response 19.4

The commenter asks about affordable housing provisions of the proposed project. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). Please see Response 8.5.

The commenter requests that the proposed project be denied. This comment on the merits of the project (and not directly on the decision makers’ consideration of the Final EIR) is noted and will be forwarded to the City’s decision makers for their consideration.
From: Jerry Edelstein <jedelstein@lbl.gov>
Date: November 26, 2014 at 8:29:39 PM PST
To: <asage@cityofberkeley.info>
Subject: Comments regarding the Impact of 2211 Harold Way

To Aaron Sage
Fr Jerry Edelstein

RE Impact of 2211 Harold Way posed development

Sir,
I encourage Berkeley to denying this massive and out of place development,

After being a resident of Berkeley for a decade and continuing to work at the University there for two more decades, i fell qualified to remark on the culture and quality of life in this city. The posed development is out of scale with the current character of the location and will be detriment to both culture and quality in that fantastic historical buildings will be destroyed as well as historic views from the Berkeley campus.

The development is wrong for Berkeley, and dramatically so. The envisioned plan has such a substantial impact on the city character that any opportunities for further public comment and specific consideration by the City Council is clearly warranted.

regards,

Dr. Jerry Edelstein
Full Research Astronomer
Space Sciences Laboratory
Univ. of California,
Berkeley.
Letter 20

COMMENTER: Jerry Edelstein

DATE: November 26, 2014

RESPONSE:

Response 20.1

The commenter states an opinion that the proposed development is out of scale with the character of the location. The commenter also opines that the proposed project is a detriment to culture and quality of life in the area because it would result in the loss of a historic building and historic view from the Berkeley campus. Please see topical responses A, Project Visual and Historic Compatibility Impacts, and B, Westward View from Campanile Way, for responses to these comments.

Response 20.2

The commenter states an opinion that additional opportunities for public comment and specific consideration by the City Council are warranted. See Response 16.1 for a response to this comment.
Blocking the View from U.C.'s Campanile Way
Proposed Development at 2211 Harold Way

I would like to speak to the visual impact on our historic and highly regarded University of California by the proposed development on Harold way by an out of town developer.

In 1873 the fledgling University moved from Oakland to the prized site in Berkeley, exactly opposite the Golden Gate.

The first buildings constructed were North Hall and South Hall sited to symmetrically flank the pathway west to the fledgling town of Berkeley, the Golden Gate and the beautiful Bay. So more than 40 years before the Campanile was finished, the campus already had this view corridor in place.

In 1914 the Campanile, designed by distinguished campus architect, John Galen Howard, was built, finished in 1915 with the esplanade around it's base built in early 1916. The pathway leading from the Campanile west became known as Campanile Way and to this day it is walked by hundreds of students, faculty and others daily.

I went out of my way to walk that path en route from my North Berkeley home to Berkeley High because I too loved the view of the Golden Gate and the Bay. And I had many more occasions to enjoy that view as a Cal student and in the many years since.
Now an out of town developer from Southern California proposes to build a towering 194-foot building and cut off this historic, iconic view from Campanile Way to the Golden Gate and the Bay.

I urge you to deny the elimination of this historic view which goes back to the beginnings of the University of California in Berkeley in 1873.

Jane Edginton
11/6/14
Letter 21

COMMENTER: Jane Edginton

DATE: November 6, 2014

RESPONSE:

Response 21.1

The commenter provides historical background information about Campanile Way. This information is noted. The information does not include significant historic background information that is missing from or conflicts with the HRTR or Draft EIR. See Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response 21.2

The commenter states an opinion that the project would “cut off” views of the bay and the Golden Gate from Campanile Way. However, as shown in figures 4.1-3 through 4.1-7 in Section 4.1, Cultural Resources, of the Draft EIR, and as described in the text in that section, only a portion of the view would be obstructed, and only from some viewpoints on Campanile Way. See Topical Response B, Westward View from Campanile Way, for additional information. The commenter goes on to request that the project be denied; this comment does not pertain to the Draft EIR or CEQA process but will be forwarded to the City’s decision makers for their consideration.
Dear Mr. Sage,

Table ES-1 of the EIR does not adequately address the full impact of views, which will be blocked by the proposed 180 foot building.

I moved to Berkeley 20+ years ago (and stayed) because of the people, the culture, the built environment and the natural beauty, among other things.

We in the bay area love that we can see not only the golden gate bridge, but the hills of Marin and the bay and the east bay hills and various other bridges from many views and vantage points throughout our cities.

New developments that are taller than 6-7 stories in height threaten that, universally. You need to consider this in your EIR.

Why is precedence given to views of the golden gate bridge, from the Campanile?

Caroline Ely
Berkeley
Letter 22

COMMENTER: Caroline Ely

DATE: December 1, 2014

RESPONSE:

The commenter states an opinion that Table ES-1 of the EIR (which summarizes the impacts discussed throughout the EIR) does not adequately address the full project impact on views. The commenter states an opinion that views in Berkeley are important to the people who live there and that new buildings taller than 6-7 stories in height threaten those views and should be considered in the EIR. However, the commenter does not provide any information or analysis on which to base a specific response. The proposed project’s impacts on views are discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR. Impacts were determined to be less than significant. The commenter asks why precedence is given to views of the Golden Gate Bridge, from Campanile Way. Please see Response 8.7 and Response 54.3 for a response to this comment, as well as Topical Response B, Westward View from Campanile Way.
From: David Ely <david.c.ely@sbcglobal.net>
Date: November 30, 2014 at 9:14:47 PM PST
To: <asage@cityofberkeley.info>
Subject: Comments on the draft EIR for the proposed 2211 Harold Way Mixed-Use Project

Aaron,

I offer the following comments to the draft Environmental Impact Report (Draft EIR) for the proposed 2211 Harold Way Mixed-Use Project:

- I do not think the draft EIR adequately considered the height of the proposed building with the aesthetics of downtown Berkeley.
- I am particularly disturbed by the “Visual simulation of Proposed Project” per Figure 4.1-4 (in Section 4.1). If one looks close, one sees the proposed building infringing on what was an unobstructed view of the Golden Gate Bridge (on the other side of the Bay). Figure 4.1-7 shows the same results. These iconic views of the Golden Gate Bridge would become partially blocked by this tall building. That would be a terrible shame.

As a homeowner and resident of Berkeley (since 2005), I remain concerned with the ever-creeping upward skyline of my city.

David Ely
1328 Addison Street
Berkeley, CA 94702
Letter 23

COMMENTER: David Ely

DATE: November 30, 2014

RESPONSE:

Response 23.1

The commenter states an opinion that they do not think the Draft EIR adequately considered the height of the proposed building with the aesthetics of downtown Berkeley. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 23.2

The commenter states an opinion that Figures 4.1-4 and 4.1-7 show that the proposed project would partially block an unobstructed view of the Golden Gate Bridge and expresses concern for the “ever-creeping upward skyline” of Berkeley. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.
Michael Alvarez Cohen, Chair  
Zoning Adjustments Board (ZAB)  
City of Berkeley  
2120 Milvia Street  
Berkeley, California 94704

November 13, 2014

Re: Proposed 2211 Harold Way Mixed-Use Project (Project) and Draft Environmental Impact Report (DEIR)

Dear Mr. Alvarez and Members of ZAB:

If built as proposed, the Harold Way Mixed-Used Project (Project) would have a detrimental presence in Downtown Berkeley — overshadowing the City’s central hub of activity, its much-valued historic character, and its cultural sense-of-place, so essential to its revitalization.

Tonight your discussion might include the fact that the DEIR fails to fully acknowledge the Project’s potential adverse impact upon its most immediate cultural context, bound by outstanding architectural resources on Harold Way, Kittredge Street, Allston Way, and Shattuck Avenue. The DEIR also fails to acknowledge the Project’s potential adverse impacts to the wider area, rich with designated City of Berkeley Landmarks that should command further design consideration. Certainly, the Final EIR will put forth an additional alternative(s) so as to better integrate the proposed Project in respect to Berkeley’s distinct character and community life?

In regards to the ongoing evolution and revitalization of the Downtown, it seems important to be mindful that both ZAB and the Landmarks Preservation Commission have long shared efforts to guide investments, changes, alterations, and bold new projects, mindful of the valued historic context. Such efforts have fostered the UC Museum, a new high school campus, a city college, new restaurants, new cafes, expanded entertainment venues on Addison Street, the Main Library, the Buddhist Center, a regional cinema venues (inclusive of the Shattuck Cinemas) — all a balancing act in progress, integrating a diverse and vibrant community within the context of historic Downtown Berkeley.

Indeed, the proposed Project is in need of further design consideration.

Thank you for your attention.

Sincerely,
Lesley Emmington,  
former member of Landmarks Preservation Commission
Letter 24

COMMENTER: Lesley Emmington

DATE: November 13, 2014

RESPONSE:

Response 24.1

The commenter states an opinion that the Draft EIR fails to acknowledge the impact of the proposed project on its surroundings, particularly, the area’s “cultural sense-of-place,” historic character, and architectural resources. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 24.2

The commenter opines that the Draft EIR fails to acknowledge the proposed project’s potential adverse impact to the wider area, particularly designated City of Berkeley Landmarks. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 24.3

The commenter states an opinion that the Final EIR should put forth an additional alternative that better integrates the proposed project with the context. Please see topical responses A, Project Visual and Historic Compatibility Impacts, and C, Adequacy of the Draft EIR Alternatives, for responses to this comment.

Response 24.4

The commenter states an opinion that the proposed project needs further design consideration. This comment does not pertain to the Draft EIR but is noted and will be forwarded to the City’s decision makers for their consideration.
November 30, 2014

Mr. Aaron Sage
Senior Planner
Land Use Planning Division
2120 Milvia Street, 2nd floor
Berkeley, CA 94704
Via email: asage@cityofberkeley.info

Dear Mr. Sage:

I am writing, solely as an individual expressing my own views, to provide comments on the Draft Environmental Impact Report (DEIR) for the 2211 Harold Way project. This recapitulates and expands upon my comment letter during the project scoping period.

A primary concern is the continuing deficiency of the environmental review in regard to the very real detrimental impacts of the project on the historic view shed of Campanile Way.

To review:

The Downtown Area Plan EIR did not assess the impacts to historically significant views of San Francisco Bay and the Golden Gate from the base of the Campanile and from Campanile Way.

The City and project applicant were made aware of the impact of the proposed building on this historic view starting in February, 2013 at a Design Review Committee meeting, and during public testimony at almost every subsequent meeting and review regarding this project.

The applicant’s representatives have chosen to seek to diminish and dismiss the view impact. Objective analysis by public agencies should not follow their lead.

These are the basic facts that the Final EIR should acknowledge:

Campanile Way is a well-established historic view corridor, dating to the 1870s. This can be dated with certainty to 1873—the year the University moved to Berkeley—by a map prepared for The Regents of the University that year, which demarcated a "baseline for buildings" paralleling the route of Campanile Way, and located south of the 1866s Onsted axis suggested for the campus, and by subsequent photos (submitted in Scoping comments) showing the existence in the 19th century of a straight-line pathway/roadway (the Center Street Path) on the line of Campanile Way, pointed at the Golden Gate.
The view is integral to Campanile Way, and is a significant historic resource in its own right. It was the view that established the roadway and the placement of flanking buildings, not the roadway that established the view. The roadway preserves the view, and the flanking buildings, which came after the view corridor was established, were carefully designed and planned to setback lines. The view is not secondary or simply a contributing feature of it.

The buildings and landscape of Campanile Way were carefully planned to frame the view. In the 19th century South Hall, North Hall, Bacon Library, and the University flagpole were all placed to symmetrically frame the view corridor. In the early 20th century California Hall, Durant Hall, Doe Library, Wheeler Hall and the Sather Campanile were added, framing what was newly known as Campanile Way. In the mid-20th century the Valley Life Sciences Building and Dwinelle Hall were added symmetrically flanking the lower portion of Campanile Way. All of the numerous official campus plans from the 1870s to the present day (with the exception of the Benard Plan, 1900, which was only implemented for one building) reflect this orientation.

The current view is somewhat constrained by overgrown landscaping but this is not a permanent condition, and current University plans and policies call for that landscaping to be reformed to reflect its historic character which emphasized low plantings, and pruned trees that lay below the Bay view. The EIR should not assume that the current landscaping will remain in its present form and should, instead, evaluate the visual effect of 2211 Harold Way on the entire historic view shed that still exists between the buildings lining Campanile Way. With the landscaping opened up, the impact of the building would be much larger than shown in the view simulations provided in the DEIR, and would have a much more severe impact. This is illustrated in the historic view (early 1920s) shown below. The Bay / Golden Gate view was planned and exists from building façade to building façade, not simply between the trees.
The Landmarks Preservation Commission has identified this view as a significant historic resource during its comments at its November 6, 2014 meeting. The City’s Design Review Committee has asked that a project option be shown that would rearrange the building massing to reduce the view impact. The Zoning Adjustments Board has also noted the view issue as something that should be more fully addressed.

University of California, Berkeley, plans and policies beyond the Landscape Heritage Plan also provide further confirmation of the historic and significant character of the Campanile Way view shed, the only UC document cited in the DEIR.

The University’s 2020 Long Range Development Plan (LRDP) the operative guide for campus planning, to which the Landscape Heritage Plan is subsidiary, defines Campanile Way as a formal “view and open space preservation zone” for the campus that is not to be disturbed with buildings. (2020 LRDP, illustration, page 64, Figure 12, “Composite Campus Park Design Guidelines”).

The LRDP states: “Over the years, two complementary design themes have emerged to define the relationship of buildings and landscape in the Campus Park. The first theme, pursued in the Frederick Law Olmsted plan of 1866, emphasized the complex natural order of the site...The second theme, pursued in the John Galen Howard Plan of 1908, sought to overlay on this natural landscape a formal composition of classical buildings, oriented along an east-west axis aligned with the Golden Gate. The unique character of the Campus Park results from the synergy of these two themes, the natural and the formal. Although intensively developed, the Campus Park today retains a magnificent legacy of natural and formal open spaces, as well as numerous historic buildings and ensembles. Preserving this legacy is a fundamental objective of the 2020 LRDP....POLICY: Preserve and maintain significant views, natural areas, and open spaces in the Campus Park.” (2020 LRDP, page 39, “Campus Park Framework”). (emphasis added).

The New Century Plan, which was incorporated into the LRDP, also states: “View protection: Given the spectacular setting of the campus...views have always been defining elements of campus plans: the primary example being the alignment of the campus’ historic core with the view of the Golden Gate. While many inspiring views both of and from the campus have been compromised over the years, several remain and must be protected.” (New Century Plan, University of California, Berkeley.)
The New Century Plan provides the following illustration that identifies the Campanile Way view corridor and, significantly, shows it extending into the Downtown, not simply contained on the campus. It is the up / down dashed arrow at right center, which is one of those labeled “Major views from / into campus.”

The Environmental Impact Report should respond positively to these determinations of public bodies and plans with a much more detailed and honest evaluation of historic view impacts. At a minimum the DEIR should contain:

1. **Affirmation that the views down Campanile Way are a historic resource in their own right**;
2. **Visual simulations showing the proposed building if the taller trees along Campanile Way were not there**;
3. **Evaluation of a project alternative that would reduce the view impact to a true less than significant level, especially by lowering the height of the north wing of the proposed development to a height that would not intrude into the Bay water / Alcatraz / Golden Gate view shed when seen by a pedestrian on Campanile Way.**
The exact view impact could be determined in two ways.

First, exact and precise visual simulations should be created that portray the view as it would be given a reasonably foreseeable reform of the overgrown plantings along Campanile Way, consistent with the University's landscape restoration goals and plans.

Second, while "story poles" are presumably not feasible for a building 194 feet tall, "story balloons" rising from the site to the exact height of the proposed building are completely feasible. These could be temporarily placed at corner points at least at Allston and Harold and Kittredge and Harold, and perhaps immediately behind the Shattuck Hotel where the development would rise highest at it's nearest approach to the Shattuck.

You will be familiar with the balloons several feet in diameter that are often used to advertise commercial events. Recently a car dealership on Shattuck Avenue displayed one that rose probably close to 100 feet into the air during a sales promotion.

It would be completely reasonable to require the applicant to fund two or three brightly colored balloons that could be put up at these sites for a day or two during calm weather, rising to the proposed building height, and photographed from all perspectives, including all the viewpoints along Campanile Way. These would provide a veracity that no computerized visual simulation can achieve.

The DEIR should also take into account the fact that the proposed project conflicts with the University of California's policies related to the preservation and enhancement of Campanile Way.

The EIR process should also take cognizance of the fact that a petition to designate Campanile Way as a City of Berkeley Landmark was submitted to the City on Tuesday, November 18, and awaits scheduling on the Landmark Preservation Commission agenda.

Pursuant to the Landmarks Preservation Ordinance, this constitutes, as of this writing, formal initiation of Campanile Way for consideration as a landmark. The Commission does not have discretion to vote on initiation in the case of a citizen petition—the initial role of the Commission is limited to scheduling a public hearing on the initiated property.

LPC review of Campanile Way as a potential landmark should take place in early 2015 and could well be complete before the conclusion of the EIR process for 2211 Harold Way.

The DEIR contains the assertion that Campanile Way's historic values and significance won't be affected by a tall building intruding into the view shed because
the building is some distance from Campanile Way itself and Campanile Way won't be directly physically altered by the 2211 Harold Way project.

This is absurd. Taken literally, what this means is that there can be no historic / cultural resource impact if a historic feature / building is not directly physically altered even when things happen around it that will completely compromise it. Cultural resource impacts would have no meaning under than formulation.

OTHER ISSUES

BUILDING HEIGHT:

The project architect has stated at a meeting of the joint LPC / DRC subcommittee that the actual height of the building is 194 feet. The building should be limited to an actual height of 180 feet, as specified by the voters when they approved the Downtown Area Plan.

IMPACT OF POTENTIAL THEATER LOSS ON HISTORIC RESOURCES:

The historic character of Downtown Berkeley derives, in part, from its historic role as the central entertainment district of the community. The majority of large movie theaters built in Berkeley in the 20th century during the “Golden Age” of cinema were Downtown. These included: the UC Theater (defunct as a movie theater, now proposed as a live entertainment venue); the Berkeley Theater (demolished, and replaced with a housing development); the United Artists (subdivided into seven screens and still operating); the California (subdivided into three screens and still operating); the Fine Arts. The Downtown State Historic Resources Inventory (1987) and the Downtown Plan testify to the importance of this movie theater presence.

The Shattuck Cinemas were built in the 1980s, but quickly came to be an important element of the local cinema scene, providing fully 50% of the current movie screens operating in the Downtown. Its presence allows Downtown Berkeley to maintain the critical mass and variety necessary to a true entertainment district and, in part, counteracts the loss over time of three other major theaters, the UA, Berkeley, and Fine Arts, as well as the long-lost Campus Theater, just a few minutes walk up Bancroft Way from the Downtown core. The strategic positioning of the UA, California, and Shattuck Theatres all within a block of each other allows movie goers to come to Berkeley to see nearly the whole run of current major releases, as well as art films and documentaries which are a specialty of the Shattuck Cinemas.

This movie theater district, dating back to the second decade of the 20th century (when the UC Theater was constructed) is a clear historic and cultural resource of the Downtown, affirmed by City policy and historic studies. That resource is currently endangered by the 2211 Harold Way project.

The FEIR should take cognizance of the threat to the Landmark Shattuck Cinemas. While the project applicant now—after considerable community outcry—proposes
to build some replacement theater space in the project (6 screens instead of the current ten) it is by no means certain that a theatre can afford to rent that space. The applicant’s November, 2014, Community Benefits statement notes that the fair market value of rent for the theatre space is two and a half times or more the current rent, and that no exact financial arrangement for Landmark to return has been consummated. The current state of affairs is simply that “...the (2211 Harold Way) project team is working towards a financial arrangement with Landmark Theatres.” (page 20, Community Benefits submittal to ZAB, 2211 Harold Way).

In addition, it is not clear whether the applicant would build complete movie theatres, or simply shells that a theatre chain would then need to outfit at its own expense. If the latter is the case, it is quite possible that the Landmark chain could not afford to return to the property.

The cautionary example of Berkeley’s late Fine Arts Cinema is instructive here. In that case, the developer built, at the City’s request, a shell for a theater in a new building on the old theater site at Haste and Shattuck to ostensibly replace the demolished theater. The theater operator was apparently not able to fund tenant improvements, and no theater was ever created. Instead, the building has for years somewhat mockingly sported a name the “Fine Arts Building”, and a theater style marquee over what never became an entrance to an actual theater.

The same could easily happen to the “Shattuck Cinemas” unless the applicant / developer presents a binding, enforceable, agreement for return of theaters to the building.

If this is not presented, than the FEIR should assume that there may be a significant historic / cultural resources impact from loss of the largest theater complex in Downtown Berkeley, and half (10 out of 20) of the current movie theater screens in the Downtown.

Sincerely,

Steven Finacom

Berkeley1860@gmail.com

(On the following pages I have included a number of graphics that further document / illustrate the Campanile Way historic view corridor.)
Above is a section of a "Topographic Map of the Site of the University of California at Berkeley - Surveyed by request of the Board of Regents". This map was prepared in 1873 by Cleveland Rockwell, Assistant, U.S. Coast Survey. North is to the bottom in the section of map shown here. This covers roughly the current Classical Core of the campus, between the branches of Strawberry Creek. South Hall—the first building constructed on campus—is shown at left/center. Below South Hall is a diagonal line running from left to right that is labeled "Baseline of Buildings". This line points directly at the Golden Gate view and parallels the orientation of Campanile Way, which would begin as the "Center Street Path" in the years immediately after this map was produced. Below is a current campus map, showing Campanile Way as built, slightly south of, but parallel to, the baseline shown on the 1873 map.
Below is John Galen Howard's "Study for Wheeler Hall" c. 1916-18. (Environmental Design Archives, University of California, Berkeley). Howard's plan for low foundation plantings and small trees punctuating the façade is clearly visible. Note that the Campanile Way gap between Doe Library (left) and Wheeler Hall (right) is clearly visible, as are the corners of the two buildings flanking the Way. Howard projected no tree masses rising at this point.

Above, an undated postcard view of Wheeler Hall, looking southeast from the intersection of Sather Road (foreground) and Campanile Way (with pedestrian, to the left) was probably taken within a few years of 1918, when Wheeler Hall opened to use. The original plantings are visible. Note how they almost exactly replicate the planting plan shown in the previous drawing. They include: lawn panels; low shrubs at the corners and adjacent to the roadway; pollarded London Plane trees spaced evenly as "street trees" along both roadways; foundation plantings of shrubs adjacent to the building façade; small trees used as architectural accents on the building façades. Note the Wheeler Hall staircase and arched doorway visible along Campanile Way. Historically, this was visible down Campanile Way. It is primarily the overgrowth of the foundation shrubs in recent decades that have filled in much of the space between roadway and building façade with foliage.
**Below,** is a view prepared by John Galen Howard looking up Campanile Way. The base of Sather Tower is visible in the top center. This was specifically labeled as a "planting scheme" indicating Howard's intention for the mature landscaping effect of this view corridor and the adjacent buildings. Note that there are no trees along Campanile Way taller than pollarded London Plane trees, and the corners of the buildings—particularly Doe Library and Wheeler Hall—are fully visible, not shrouded in trees.

(Source: John Galen Howard, *Planting Scheme, West Elevation of California Hall, Boalt Hall, and Philosophy Building.* Environmental Design Archives, University of California, Berkeley.)

At left is a detail of Howard's 1914 plan for the campus, officially adopted by The Regents. The Campanile is at the very top, the small brown/orange square. Doe Library (left) and Wheeler Hall (right) are the two large, hollow, square buildings at upper center, and Sather Road is below them. North is to the left. Campanile Way is clearly visible running from top to bottom down the center of the image. The landscaping shown is the same as in the other Howard drawings and plans; an allee of pollarded London Plane trees, and shrubbery and lawns between the Plane trees and the building facades.

This is the concept for Campanile Way that current campus planning policy—as expressed through the 2020 Long Range Development Plan and the Landscape Heritage Plan—seeks to recover in future campus development.

John Galen Howard, Hearst Architectural Plan, revised 1914 version. (Environmental Design Archives.)
The present-day view below shows the current conditions created by overgrown non-historic landscape. This view looks west down Campanile Way, with Wheeler Hall on the left. Virtually all of the greenery visible in front of Wheeler Hall consists of shrub plantings—primarily pittosporum—left to grow tall and irregular, in a manner inconsistent with the historic landscape. Note also the London Plane trees, grown to maturity, which are the lighter colored (yellowish) shaped trees adjacent to the road. As noted above, in the original plantings these were the primary trees in the view corridor, and they were held in height well below the horizon line of the Bay edge (without pollarding, this species would have grown as high as the buildings).

Below is a view taken from the Notice of Preparation for the project, issued in June 2014. It shows (hatched area) the impact of the building on the view shed from the Campanile base, at the top of the Murdock Steps. The impact from further west on Campanile Way would be greater, since the viewer would be at a lower elevation. Note that with the exception of one redwood tree adjacent to the far western end of Campanile Way, all of the foliage blocking the additional mass of the building consists of plantings that were not contemplated in the design of Campanile Way, and were not present in the earlier, actual, historic plantings.
Response 25.1

The commenter states an opinion that the Draft EIR is deficient in regards to its analysis of project impacts to the westward view from Campanile Way. The letter’s subsequent comments provide details on this assertion and are responded to below. The commenter also states that the Downtown Area Plan (DAP) EIR did not assess such impacts. This was noted in the following language from the Infill Environmental Checklist (Appendix A to the Draft EIR) that follows a discussion of the view impact under Item I, Aesthetics:

The view obstruction discussed above would be similar to, but less adverse than, what was modeled for the site in the DAP EIR. This is because the assumption for buildout in the DAP EIR had the 225-foot building located on the northern portion of the site, potentially blocking more of the bay and island view from this specific location. On the other hand, this viewing location was not specifically discussed and analyzed in the DAP EIR, which focused on the view from the top of the Campanile. The project would not block any bay views from the top of the Campanile (refer to DAP EIR Figure 4.1B).

In summary, scenic vistas and identified important views would not be adversely affected by the proposed project, with the exception of the view of the bay and Alcatraz Island from the base of the Campanile, which would be partially obstructed. This is considered an adverse aesthetic impact of the project…due to the potential historic significance of the east-west views along Campanile Way, this issue will be discussed in the EIR’s analysis of cultural resources impacts.

Thus this impact is discussed in the Draft EIR in Section 4.1, Cultural Resources. For further response, see Topical Response B, Westward View from Campanile Way.

Response 25.2

The commenter provides historical background information about Campanile Way. This information is noted. The information does not include significant historic background information that is missing from or in conflict with the HRTR or Draft EIR. Section 6.5 of the HRTR has been revised to more clearly describe the establishment of the Center Street path/Campanile Way; see Response 7.2, above.

Response 25.3

The commenter states an opinion that the westward view from Campanile is a historic resource in its own right. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.
Response 25.4

The commenter states an opinion that the buildings and landscape of Campanile Way were planned to frame the westward view, and that campus plans from the 1870s to the present day (with the exception of the Benard Plan) reflect this orientation, and provides some additional historical background. This comment does not include significant historic background information that is missing from the HRTR or Draft EIR. As stated in Section 6.5 of the HRTR and Page 4.1-18 of the Draft EIR,

The westerly views from Campanile Way to San Francisco Bay were soon framed by Wheeler Hall and Doe Memorial Library, which were both completed in 1917. The Valley Life Sciences Building was added west of the Library in 1930. Other notable developments from this era include the completion of the Golden Gate Bridge in 1937, and extensive construction in downtown Berkeley, a portion of which was visible from Campanile Way (e.g., the Berkeley Community Theater located on the Berkeley High School campus).

Changes to Campanile Way views during the Modern Era derived from two sources: the addition of new campus buildings, most notably the Doe Library Annex (1950) and Dwinelle Hall (1952); and substantial growth of the trees and associated vegetation that lines the Way. Together these elements have given the westerly views from Campanile Way their current, somewhat confined, configuration.

Response 25.5

The commenter states an opinion that the EIR should not assume that the current landscaping – i.e. the trees that form a portion of the westward view from Campanile Way – will remain in its present form and should, instead, use the “historic” view shed (without the trees) as a baseline condition. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 25.6

The commenter states an opinion that the City’s Landmarks Preservation Commission identified the view as a significant historic resource at its November 6, 2014 meeting. The commenter is correct that the commission made such a motion at the referenced hearing. The commenter also opines that members of the City’s Design Review Committee asked at a public hearing that a project option be shown that would rearrange the building massing to reduce the view impact. Both alternatives analyzed in Section 5.0, Alternatives, include reduced heights on the northern portion of the project site that would reduce view impacts (see figures 1 through 6 in Section 3.1. Topical Responses above). An alternative to fully eliminate all possible view intrusions was not required per CEQA, as view impacts would be less than significant, as discussed in Section 4.1. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for more information on these topics and responses to these comments.

Response 25.7

The commenter summarizes information and policies from UC Berkeley’s Long Range Development Plan (LRDP). This information is noted, and does not conflict with information
presented in the Draft EIR. It should be noted that the referenced plans and policies apply to UC Berkeley only, and not proposed development within the City of Berkeley. Policies calling for view protection are intended to guide changes within the campus.

Response 25.8

The commenter again states an opinion that the westward view from Campanile is a historic resource in its own right. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 25.9

The commenter states an opinion that the EIR should show visual simulations showing the proposed building if the taller trees along Campanile Way were not there. As discussed in Topical Response B, Impacts to the Westward View from Campanile Way, such a scenario is not a proper baseline for assessing environmental impacts under CEQA; therefore, such simulations are not required.

Response 25.10

The commenter states an opinion that the EIR should include a project alternative that would reduce the view impact “to a true less than significant level” by lowering the height of portions of the building so as not to affect the view from Campanile Way. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 25.11

The commenter requests visual simulations showing the proposed project with “foreseeable reform of the overgrown plantings along Campanile Way, consistent with the University's landscape restoration goals and plans.” UC Berkeley planning staff is not aware of adopted or programmed plans to remove or substantially cut back trees in the westward view from Campanile Way to the extent that they would substantially change the simulations used in the Draft EIR (Jennifer McDougall, Principal Planner, UC Berkeley Capital Projects, personal communication 12/22/2014). Please see Topical Response B, Impacts to the Westward View from Campanile Way, for additional information on this topic.

The commenter also requests that “story balloons” be erected to further help illustrate the project’s position and appearance from the UC Berkeley campus. This suggestion is noted. However, it is not necessary for the purposes of reasonable good-faith disclosure per CEQA, as the visual simulations in the Draft EIR are sufficient to illustrate the potential view impact.

Response 25.12

This comment states an opinion that that the proposed project conflicts with the University of California’s policies related to the preservation and enhancement of Campanile Way. Please see Response 25.7.
Response 25.13

The commenter states that a petition to designate Campanile Way as a City of Berkeley Landmark was submitted to the City on Tuesday, November 18, and awaits scheduling on the Landmark Preservation Commission agenda. The commenter also discusses the landmarking process and states an opinion that the EIR “process should also take cognizance of” this situation. These facts are acknowledged by the City and included here in the Final EIR as part of this Responses to Comments document. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for additional information on this topic.

Response 25.14

The commenter states an opinion that the Draft EIR conclusion that impacts to the view would be less than significant because the change in view would not physically alter Campanile Way is equivalent to stating that “there can be no historic / cultural resource impact if a historic feature / building is not directly physically altered even when things happen around it that will completely compromise it.” The fact that no direct physical impacts would occur to Campanile Way is only one component of the analysis supporting the determination that impacts would be less than significant. In addition, as discussed in Section 4.1, rather than completely compromising the view, only part of the view would be blocked, and only from some Campanile Way viewpoints, constituting a change to an evolving character-defining feature (the view) of a contributing element (Campanile Way) of a cultural landscape (the Classical Core of the UC Berkeley campus), such that enough of the view would remain to convey Campanile Way’s significance in relation to westward views.

Response 25.15

The commenter requests that the proposed project be limited to a maximum height of 180 feet, “as specified by the voters when they approved the Downtown Area Plan.” This comment does not pertain to the Draft EIR but is noted and will be forwarded to the City’s decision makers for their consideration. Please note that the Berkeley Municipal Code, which implements the DAP through its general and specific zoning regulations, allows for mechanical penthouses and certain other rooftop structures to exceed maximum building height within certain parameters with issuance of an Administrative Use Permit, which is part of the project application.

Response 25.16

The commenter provides background about the Shattuck Cinemas (also referred to by commenters as the Landmark Theater) and states an opinion that, in conjunction with other nearby movie theaters, it forms a “movie theater district” that is “a clear historic and cultural resource of the Downtown.” The commenter expresses concerns about the proposed new theaters in this context, and suggests that “unless the applicant / developer presents a binding, enforceable, agreement for return of theaters to the building…the FEIR should assume that there may be a significant historic / cultural resources impact.” Please see Topical Response D, Demolition of the Shattuck Cinemas, for responses to these comments.
The destruction of the Shattuck Cinemas will be grossly detrimental for the Berkeley community, including the many downtown businesses that rely on the foot traffic generated by folks coming downtown to go to the movies. People come from all over the East Bay to see films at Shattuck Cinemas, even sometimes from SF.

Do we really want to go to UC Berkeley Campanile Plaza and look down on an 18 story high-rise instead of the Golden Gate Bridge and San Francisco Bay. People come from all over the world to visit UC Berkeley and take pictures of the view from Campanile. In the few minutes I was there today I was struck by the number of visitors. We've already lost 7 theaters in Berkeley, this would be more.

An eighteen story residential high rise will place great burdens on city amenities while stealing from the whole state of CA. Everyone in CA owns the view from the Campanile and the proposed tower on Harold Way will obliterate it -- stealing, literally, part of our commons for private profit is wrong wrong wrong.

Love rays,
Tree Fitzpatrick

... the great and incalculable grace of love, which says, with Augustine, "I want you to be," without being able to give any particular reason for such supreme and insurpassable affirmation. ---- Hannah Arendt

"Looking back over a lifetime, you see that love was the answer to everything." — Ray Bradbury
Letter 26

COMMENTER: Tree Fitzpatrick

DATE: November 29, 2014

RESPONSE:

Response 26.1

The commenter states an opinion that the loss of the Shattuck Cinemas would be detrimental to the Berkeley community, including the downtown businesses that rely on the foot traffic generated by people visiting the movies. See Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. In addition, this comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 26.2

The commenter discusses the popularity of the westward view from Campanile Way and states an opinion that the proposed project would “obliterate” the view. On the contrary, only a portion of the view would be obstructed and only from some viewpoints on Campanile Way, as discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR. Please see Topical Response B, Westward View from Campanile Way, for further information and responses.

The commenter also states an opinion that the proposed project would result in the loss of more theaters in Berkeley and place “great burdens” on city amenities. See Topical Response D, Demolition of the Shattuck Cinemas, for a response to the comment regarding the theater. As the commenter does not provide specific information or analysis on impacts to public amenities, a specific response is not possible. The public service related impacts of the proposed project are described under Item XIV, Public Services, of the Infill Environmental Checklist (Appendix A of the Draft EIR) and were found to be less than significant.
Fax Cover Sheet
Sent to: 510-981-6901

To: Aaron Sage, Senior Planner, City of Berkeley
From: Michael Glicksohn
Re: The demolition of the Landmark Shattuck Cinemas

Dear Aaron,

While I support the downtown plan for Berkeley I do not support the demolition of the Landmark Shattuck Cinemas to make way for the 2211 Harold Way project. I and thousands of others patronize those theaters on a regular basis. They show films that are not usually featured at other locations. They are a draw that brings people downtown to eat and shop.

Is there a plan to give the cinemas a new home in the new building? Or relocate them somewhere else downtown?

Thanks for hearing my feedback.

Sincerely,
Michael Glicksohn
Downtown Berkeley worker and nearby resident
510-219-5357
mglicksohn@gmail.com
Letter 27

COMMENTER:   Michael Gliksohn

DATE:        December 1, 2014

RESPONSE:

The commenter states opposition to the demolition of the Shattuck Cinemas. The comment does not pertain to the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. The commenter also asks if there is a plan to give the cinemas a place in the new building or to relocate them somewhere else downtown. As discussed in Section 2.0, Project Description, of the Draft EIR, the project as proposed includes a new six-theater cinema complex. Please see Topical Response D, Demolition of the Shattuck Cinemas, for further information on these topics.
November 26, 2014

To: Planning Dept.

Re: 2211 Harold Way Project

As a documentary filmmaker who lives in Berkeley and produces films here, I am writing to express a number of concerns regarding the DEIR development of 2211 Harold Way proposed for downtown Berkeley.

1. "The Residences at Berkeley Plaza is designed to be an innovative and contextual architectural expression in the heart of Downtown Berkeley. The building is a mixed use development containing 302 residential units and grand resident amenity spaces, quality retail and restaurants, and brand new state-of-the-art cinemas." http://2211haroldway.com/benefits.pdf. My 1st concern is why it is necessary to continue to pursue a policy of growth at all costs on a finite planet?

The proposed building will likely end up bringing in more upper class individuals who can afford to purchase an expensive condo unit in downtown Berkeley.

As can be seen from the very language posted on their website, this entire development is targeted not toward the current citizenry of Berkeley, but more upscale individuals who will likely buy very expensive condos in this development which promises "unmatched views, and boutique retail."

This is clearly going to be detrimental to those who already live in Berkeley and enjoy the amenities that currently reside at this site, the most important of which is the Landmark Shattuck Cinemas. This blatantly contradicts the expressed concerns of members of the zoning board who bemoan the decline of the middle class in Berkeley.

2. There is no guarantee in this proposed development that there will be a significant percentage of affordable rental units, nor is there any guarantee that the units that are constructed will actually be rental units, as the developer admitted at the hearing on Thursday, November 13. We thus will be bringing in more high earners, similar to what is transpiring in San Francisco. How does this benefit the current residents of Berkeley? In point of fact, it is detrimental to the current residents of Berkeley will see businesses that they have frequented evicted, and thus will be unable to enjoy those pleasures of everyday life.
3. Hidden in the language of the proposed development is the fact that currently Landmark Shattuck Cinemas pay $2 per square foot in rental for the space that they occupy. ("By comparison, the current lease with Landmark Theaters in the existing space is priced at approximately $2.00 per square foot Modified Gross (tenant pays only for utilities.")p.22, http://2211haroldway.com/benefits.pdf

It is clear from the developer's own language, that there is no guarantee that Landmark will be afforded this rental fee in the new building. On the contrary, their website indicates that the "subsidized" rent will be $3.50 per square foot, an increase of 75%. What this means practically speaking is either Landmark does not remain as the tenant for these movie theaters, or it has to substantially raise the ticket prices as well as the prices for the food and beverages they sell. This will obviously impose an additional burden on theatergoers, but in all likelihood will mean that Landmark will not renew its lease. When I spoke with the developer's representative on November thirteenth he acknowledged that at least 2 other theater groups would be interested in renting the theater space in the new building, which he considered a positive outcome.

Why is this a problem? The answer is quite simply that Landmark theaters bring films to the Berkeley community and to all of its theaters nationwide that other theater chains do not. Here is their description of their mission. "Landmark Theatres is a recognized leader in the industry for providing to its customers consistently diverse and entertaining film products in a sophisticated adult-oriented atmosphere. Our theatres showcase a wide variety of films — ranging from Independent and Foreign film to 3-D movies and smart films from Hollywood. Landmark Theatres is the nation's largest theatre chain dedicated to exhibiting and marketing independent film."

Landmark exhibits documentaries, some of which are locally produced here in the Bay Area and in Berkeley, foreign films, independent films and films that are made for a mature adult audience, in contrast to the films that play down the street made for a teenage audience. Thus the loss of Landmark Shattuck Cinemas would be detrimental to the cultural life of Berkeley citizens, and reduce the attractiveness of downtown Berkeley immeasurably.

4. Referring again to the document submitted by the developer, there is no provision made for the Shattuck Cinemas to continue operating while construction takes place...
around its theaters. If Landmark is forced to close the Shattuck while construction takes place, it effectively removes this vital cultural presence from the downtown area. Not only is this a substantial loss for the residents of Berkeley, but it will mean a significant economic loss for those downtown businesses who benefit from the foot traffic to the theater. Specifically, all of the restaurants that are visited by theatergoers, as well as other small businesses on Shattuck Avenue.

5. It has been brought to my attention that the real estate developer has purchased the property at 2211 Harold Way for $100 million. As we say in the real world, that is not chump change. The developer clearly wants to make a profit, and from my vantage point cares little about its detrimental impact on the community. We can see this in evidence already with the eviction notice given to the children's Habitot Museum. From the evidence presented on November 13 to the zoning board by various members of the community, this proposed development is detrimentally impacting the children of Berkeley.

6. "Section 23E.68.090.E of the Zoning Ordinance requires the following for buildings taller than 75 feet (emphasis added):

In order to approve a Use Permit for buildings over 75 feet in height under Section 23E.68.070.B, the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities."

The developer touts that he is providing significant community benefits in this project. But as one drills down deeper into the language written by the developer, it becomes clear that the critical issue of affordable housing is glossed over, with the implication that the developer will pay money to the city housing trust. This clearly indicates that this project is not intended to create new affordable housing, but to create expensive high-rise condo units, similar to what is taking place in other cities across the country, and is wrapped in a green wash ribbon. This is not something that the citizens of Berkeley actually wanted when they were misled into voting no on measure R. It is instructive to see who were the major donors opposing measure R. They of course include all of the real
estate developers who are either planning or developing projects in the city of Berkeley. What is a bit startling is that the current mayor of Berkeley loaned $10,000 to the no vote campaign. This shows how deeply intertwined real estate developers are with the mayor and several city Council members, and is a poor reflection on our democracy. Additionally, major funds were provided to this negative campaign by the Chicago Board of Realtors. One can only guess why this entity would spend money in the city of Berkeley. Perhaps it has to do with the fact that Sam Zell lives in Chicago, as he buys up properties here in Berkeley California.

7. The project team met with several community groups, many on multiple occasions, including:

- Berkeley Architectural Heritage Association
- Downtown Berkeley Association
- Berkeley Chamber of Commerce
- Berkeley Public Library
- The League of Women Voters
- The YMCA
- Dharma College and the Mangalam Center
- UC Berkeley development office
- Representatives of Iron Workers Local 378 and Plasterers and Cement Masons Local 300
- The Berkeley Association of Realtors
- Friends of the Berkeley Public Library
- Building and Construction Trades Council of Alameda County

The developer asserts that the project team met with "several community groups on multiple occasions." The above listed organizations are hardly representative of the community. For the most part they represent the business community and several nonprofit organizations.
8. "Outreach to numerous community groups found a strong desire for home ownership opportunities within this particular project. The Downtown Berkeley Association board members indicated an objective of increasing homeownership in the Downtown, and the Berkeley Association of Realtors confirmed numerous clients have expressed interest in condominium ownership in Downtown."

The language used by the developer here again is misleading, as it asserts it reached out to numerous community groups though it only lists the Downtown Berkeley Association and the Berkeley Association of Realtors. That is hardly representative of the community at large in Berkeley. It is also clear from the above statement that local realtors are salivating at the opportunity to sell hundreds of popular units in this proposed building, while anticipating several thousand additional units coming online during subsequent years. Taken together, the impact of thousands of new condo units will not make Berkeley more affordable, rather it will have a detrimental effect on the ability of ordinary middle-class people to continue to live in Berkeley.

In conclusion, I believe this proposed building will unravel the cultural center of downtown Berkeley, resulting in significant economic loss to local businesses as well as depriving the East Bay of the opportunity to see films that are relevant to our lives, as well as entertaining. The plans for this building need to be drastically altered so that it blends into the downtown historic area, and does not disrupt the cultural, aesthetic and economic stability of the city.

Yours truly,

Donald Goldmacher, M.D.
1017 Shattuck Ave.
Berkeley, CA 94707
Letter 28

COMMENTER: Donald Goldmacher, M.D.

DATE: November 26, 2014

RESPONSE:

Response 28.1

The commenter asks “why it is necessary to continue to pursue a policy of growth at all costs on a finite planet,” and opines that the proposed project would be “detrimental” to those who currently live in Berkeley and that it is targeted towards “upper class individuals.” These comments do not conflict with or challenge the analysis or conclusions of the Draft EIR, but they are noted and will be forwarded to the City’s decision makers.

Response 28.2

The commenter states an opinion that the proposed project does not guarantee affordable housing or rental units. The commenter also opines that the proposed project would be detrimental to Berkeley residents as local businesses are evicted from the project site. There is no low-income housing currently on the project site. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). The purpose of the EIR is not to apply or suggest regulatory requirements not related to environmental impacts. Nevertheless, these comments will be forwarded to the decision makers for their consideration.

Response 28.3

The commenter states an opinion that the proposed project would not guarantee that Landmark Theaters would be able to afford the rental cost of the proposed new theater. The commenter objects to the loss of the theater, stating that it would be detrimental to the culture and attractiveness of Downtown Berkeley. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 28.4

The commenter states an opinion that the proposed project would not guarantee that Shattuck Cinemas would operate while the proposed project is under construction. The commenter states an opinion that loss of the theater during this time would result in economic impacts to Downtown Berkeley, as local restaurants and other businesses would lose customers. These comments pertain to the potential social and economic effects of the project, which are not within the range of impacts studied pursuant to CEQA, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.
Response 28.5

The commenter states an opinion that the project applicant wants to make a profit and does not care about the proposed project’s “detrimental impact to the community.” The commenter finds evidence of this in the eviction of the Habitot Children’s Museum by the proposed project. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.

Response 28.6

The commenter states an opinion that the proposed project would not create affordable housing. Please see Response 28.2.

Response 28.7

The commenter opines that the project applicant did not meet with a sufficient number of community groups. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. The public process for the Draft EIR is discussed in Section 1.2 of this Response to Comments document; the process met or exceeded CEQA and City standards for public notification and review periods.

Response 28.8

The commenter restates an opinion that the project applicant did not meet with a sufficient number of community groups. See Response 28.7. The commenter also opines that the proposed project would not make Berkeley more affordable to live in and would unravel the “cultural center” of Berkeley. The commenter expresses concern that the proposed project would result in a significant economic loss to local businesses and a loss of relevant films. These comments do not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR. In addition, these comments pertain to the potential social and economic effects of the project, which are not within the range of impacts studied pursuant to CEQA, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.
From: sheila goldmacher [mailto: sheinaleah@comcast.net]
Sent: Monday, December 01, 2014 1:43 PM
To: Sage, Aaron E.
Subject: Shattuck Cinemas

I am writing to let you know that I strongly opposed to the "plans" to pull down one historic block that is so much a part of Berkeley today and much of yesterday.

I am an 80 year old elder and spend many wonderful hours going to out standing films that play nowhere else but at the Landmark cinemas on shattuck Avenue. In addition I have difficulty climbing stairs and appreciate the fact that all the 10 theaters at the Shattuck cinemas are completely accessible to me and many of my friends who are elders and/or in scooters or wheelchairs or use canes or walkers.

None of us were asked to come to any community input meetings by the realtors who are eyeing our downtown with greedy eyes whose sightlines include only the wealthy and not the majority of us in the middle or working classes in this town.

I am appalled that the zoning board is ready to pass it all without a thought about what will be lost - jobs, small businesses in the downtown area, a reason to come downtown at all, accessible entertainment venues and the quality of art that we look forward to regularly. Shame, Shame on all of you.

sheila goldmacher
2341 Parker St. #8
Berkeley, Ca., 94704
Letter 29

COMMENTER: Sheila Goldmacher

DATE: December 1, 2014

RESPONSE:

Response 29.1

The commenter opposes the proposed project, in part because she enjoys visiting the wheelchair-accessible Shattuck Cinemas. New theaters as proposed would be required to meet all requirements of the Americans with Disabilities Act (ADA) and California Building Code regarding wheelchair accessibility. This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project. The commenter also expresses concern that the public was not invited to the community input meetings. Please see response 28.7. In addition, the City held hearings on the Draft EIR before the Design Review Committee on November 4, 2014; before the Landmarks Preservation Commission (LPC) on November 6, 2014; and before the Zoning Adjustments Board (ZAB) on November 13, 2014. Additional public hearings on the project before the LPC and ZAB will also be required before the City can make a final decision on the EIR and the project.

Response 29.2

The commenter expresses concern that the ZAB may approve the proposed project without consideration of lost jobs, small businesses, accessible venues, and the quality of life and art in the area. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration. As discussed above, new theaters as proposed would be required to meet all requirements of the Americans with Disabilities Act (ADA) regarding wheelchair accessibility.
From: E. Anne Griffiths [mailto:eagriff@earthlink.net]
Sent: Monday, December 01, 2014 10:42 PM
To: Sage, Aaron E.; Zoning Adjustments Board (ZAB); Sage, Aaron E.
Subject: Comment 2211 Harold Way

Anne Griffiths: eagriff@earthlink.net
December 1, 2014 at 8.30 pm

To Berkeley City Government,

I’ve lived in Berkeley since 1969. I understand that cities must now increase housing density near public transport.

However, another goal, frequently stated by our city government, has been to make the downtown of Berkeley a vibrant area that will attract businesses, tax dollars and visitors, and a reputation as a place that people will wish to live.

I am mystified by the decision to build an eighteen-story building in the very center of downtown, a gateway to the city, and in the process to destroy fundamental, vibrant elements of the area: the Shattuck Cinema (major attraction) and the Shattuck Hotel (attractive historic building, stable resource for visitors and businesses alike – near Bart and a taxi rank no less, plus a local and business social gathering center.) These, with the new arts district, have brought hope to our blighted downtown. Years of demolition and reconstruction will do exactly the opposite.

This building plan is destructive to Berkeley as an UNUSUAL and thus attractive center for residency, visitors, and tax dollars. This makes no sense. Please think harder.

I am forced to begin to consider: What possible reasons can there be for this? Is our Berkeley administration somehow benefiting from these plans?

Respectfully,

Anne Griffiths
2434 Woolsey Street
Berkeley, CA 94705
Letter 30

COMMENTER:  Anne Griffiths

DATE:       December 1, 2014

RESPONSE:

Response 30.1

The commenter expresses concern that the proposed project would involve years of demolition and construction, which will “destroy” the new arts district and “vibrant elements” of the Downtown, such as the Shattuck Cinema and Shattuck Hotel. It should be noted that the proposed project does not include demolition of the main buildings of the Shattuck Hotel.

This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

Response 30.2

The commenter states an opinion that the proposed project is “destructive” to the unique and attractive qualities of Berkeley. This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.
Honorable Chairman and Board members

I am a 25-year resident of Berkeley who halfheartedly voted for the recent Measure R as being at least a toning-down of the lunatic Downtown Area Plan (DAP). The whole premise of the DAP is that new residents will not own cars. You have only to look at other cities throughout the world to appreciate the fallacy of this argument. People keep and use their cars until the average rush-hour traffic speed is about 5 mph, like London and New York. Even San Francisco’s getting close to that. I haven’t yet studied the traffic and cumulative impacts sections of the DEIR, and am not sure that I need to. My considerable experience with EIRs has taught me that figures don’t lie, but liars figger. I’ve lived in enough major urban areas to know what will happen, regardless of the conclusions of the DEIR.

Given a choice, young people will opt for apartments in or near downtown Oakland, where parking is more available. Furthermore, the present housing boom can’t last forever, and I suspect that many of the proposed high-rise residential buildings will hit the market as it turns down. If, by chance, the developments are successful, new residents will bring new cars, and driving or parking anywhere near downtown will become impossible.

So, the DAP will put the City between a rock and a hard place. Either traffic congestion and parking problems will increase by an order of magnitude, or downtown blight will greatly increase, with more empty (but new and shiny) stores, and empty residences.

And please don’t get me on the subject of the planned hotel at Center and Shattuck. Parking for that is a joke.

I ask you to seriously consider:

1. The cumulative impacts of planned projects, particularly traffic-related impacts.
2. Project alternatives. These are rarely examined properly, and the "No Project" option should always be considered.

2211 Harold Way may not kill downtown Berkeley, but the whole of the DAP will.

Thank you

Nigel Guest
Principal, Avalon Environmental
24 Arden Road
Letter 31

COMMENTER:  
Nigel Guest, Avalon Environmental

DATE:  
November 15, 2014

RESPONSE:

Response 31.1

The commenter states concerns regarding parking and traffic congestion, but does not present information or analysis to challenge the Draft EIR analysis or conclusions, therefore a specific response is not possible. Nevertheless, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project. Project-related traffic impacts are discussed in Section 4.2, Transportation/Traffic, of the Draft EIR. As discussed therein, impacts would be mitigated to a less than significant level through implementation of Mitigation Measure T-2. Pursuant to CEQA Guidelines Appendix N and the City’s standard approach to defining significant environmental impacts under CEQA, parking is not typically a topic of required environmental analysis under CEQA. As described in Section 2.4, Project Characteristics, of the Draft EIR, the proposed project would include 171 parking spaces. Up to 29 parking spaces may be available to the public and/or the Shattuck Hotel.

Response 31.2

The commenter states an opinion that the Downtown Area Plan will either increase traffic congestion and parking problems by an order of magnitude or Downtown blight will greatly increase. See Response 31.1 regarding traffic and parking. The commenter does not present any analysis indicating why blight would result from the proposed project. This comment does not pertain directly to the analysis or conclusions of the Draft EIR, but will be forwarded to the City’s decision makers for their consideration during their review of the project.

Response 31.3

The commenter asks that the Draft EIR consider the cumulative impacts of planned projects, particularly traffic-related impacts. In Section 4.2, Transportation/Traffic, the Future No Project and Future With Project analyses consider traffic conditions with anticipated regional traffic increases and vehicle trips generated by cumulative projects in the vicinity of the proposed project. The proposed project’s impact on future, cumulative traffic levels was determined to be potentially significant, but mitigable to less than significant levels.

Response 31.4

The commenter states support for the No Project alternative and opposition to the proposed project. These comments will be forwarded to the City’s decision makers for their consideration during their review of the project.
From: Nigel Guest [mailto:contact@avalon-enviro.com]
Sent: Sunday, November 16, 2014 2:49 AM
To: Zoning Adjustments Board (ZAB)
Subject: Re: 2211 Harold Way, etc. - clarification

Honorable Chairman and Board members

I wish to add a clarification to my email below. I requested that the board seriously consider the cumulative impacts of planned projects, particularly traffic-related impacts.

As you are doubtless aware, SB 743 (2013) required the CEQA Guidelines to eliminate consideration of traffic congestion (Loss of Service) and parking availability as significant impacts under CEQA (http://resources.ca.gov/ceqa/docs/2014_CEQA_Statutes_and_Guidelines.pdf).
However it did not eliminate other traffic-related impacts, such as vehicle miles traveled, total and per capita, or automobile trips generated. Nor did it eliminate air quality, noise, safety, or any other impact associated with automobile traffic.

Regarding vehicle miles traveled in the downtown area, these will clearly rise, the more difficult it becomes to find parking.

Thank you for your consideration.

Nigel Guest

On 11/15/2014 11:19 PM, Nigel Guest wrote:
> Honorable Chairman and Board members
> 
> I am a 25-year resident of Berkeley who halfheartedly voted for the
> recent Measure R as being at least a toning-down of the lunatic
> Downtown Area Plan (DAP). The whole premise of the DAP is that new
> residents will not own cars. You have only to look at other cities
> throughout the world to appreciate the fallacy of this argument.
> People keep and use their cars until the average rush-hour traffic
> speed is about 5 mph, like London and New York. Even San Francisco's
> getting close to that. I haven't yet studied the traffic and
> cumulative impacts sections of the DEIR, and am not sure that I need
> to. My considerable experience with EI Rs has taught me that figures
> don't lie, but liars figger. I've lived in enough major urban areas to
> know what will happen, regardless of the conclusions of the DEIR.
> 
> Given a choice, young people will opt for apartments in or near
> downtown Oakland, where parking is more available. Furthermore, the
> present housing boom can't last forever, and I suspect that many of
> the proposed high-rise residential buildings will hit the market as it
> turns down. If, by chance, the developments are successful, new
> residents will bring new cars, and driving or parking anywhere near
> downtown will become impossible.
So, the DAP will put the City between a rock and a hard place. Either traffic congestion and parking problems will increase by an order of magnitude, or downtown blight will greatly increase, with more empty (but new and shiny) stores, and empty residences.

And please don't get me on the subject of the planned hotel at Center and Shattuck. Parking for that is a joke.

I ask you to seriously consider:

1. The cumulative impacts of planned projects, particularly traffic-related impacts.
2. Project alternatives. These are rarely examined properly, and the "No Project" option should always be considered.

2211 Harold Way may not kill downtown Berkeley, but the whole of the DAP will.

Thank you

Nigel Guest
Principal, Avalon Environmental
24 Arden Road
Letter 32

COMMENTER:  Nigel Guest

DATE:  November 16, 2014

RESPONSE:

The commenter re-states a request (see Letter 31) that the board consider the cumulative impacts of planned projects, particularly traffic-related impacts. See responses to Letter 31, above.

The commenter states an opinion that SB 743 (2013) required the CEQA Guidelines to eliminate consideration of traffic congestion (Loss of Service) and parking availability as significant impacts under CEQA. The commenter opines that SB 743 did not eliminate other traffic-related impacts, such as vehicle miles traveled, automobile trips generated, air quality, noise, safety, or any other impact associated with automobile traffic. The commenter states an opinion that vehicle miles traveled will rise in the Downtown area, as it becomes more difficult to find parking. While SB 743 has been signed into law, the subsequent revisions to the State CEQA Guidelines related to transportation analysis are not yet complete. As of the date of the Draft EIR, analysis of vehicle miles traveled is not yet required for traffic impact studies under CEQA. Therefore, the analysis follows the current City of Berkeley traffic study guidelines. Nevertheless, the commenter’s information and opinions in this regard are noted.
Response to 2211 Harold Way Proposed Development by Kelly Hammargren

To: Land Use Planning Division
Re: 2211 Harold Way

From: Kelly Hammargren
1709 Bancroft Way
Berkeley, CA 94703

Some fifty years ago, the leaders of the town where I grew up were afraid they were losing out on the growing economy. Developers convinced the mayor, city leaders and planners that their proposed development plan to make the city center a grand mall, would bring prosperity and security to the locally owned shops and businesses. My father tried desperately and unsuccessfully to convince the city leaders the development plan was a horrible mistake. They refused to listen, eyes glossed with promises and vision that the grand development plan would not only bring economic success, they would be recognized as leaders with great foresight.

My father was right. People stop visiting. The uniqueness of the downtown was gone and within a few years the locally owned anchor stores were gone too. The city center disintegrated and never recovered. All attempts to bring back the vibrant bustling city center failed. I was just there in October and it feels like a ghost town with a lonely hotel, a couple of bars and a few businesses. Nearly everything has moved out.

Now I stand in similar shoes with others asking, pleading that you stop the grand proposed 2211 Harold Way Development.

As a long time resident and homeowner in Berkeley, I attended the November 13, 2014 Zoning Adjustment Board Meeting. I had just learned of the proposed 2211 Harold Way Development the day before and spoke in objection even though I did not have time to prepare a thorough and concise response.

It was unknown to me at the time how important making any response at the Zoning Adjustment Board meeting would be as without that brief comment, I would not have received the mailed notices that arrived a few days later. And, that experience is critical as it demonstrates the detrimental impact of the disintegration of news and the lack of coverage of our Berkeley City Council and Commissions. It takes considerable time and effort to stay abreast of the happenings, proposals and actions.

What drew me to Berkeley are the unique qualities that differentiate Berkeley from every other city that has been overtaken by developers, high rise buildings and box stores. It is the diversity of our city, the eclectic mix of people on the street, the culture with theater, music, film, museums, history, UC Berkeley with its many educational seminars open to the public, superb dining, locally owned business, the small town feel of a city with a population of over 100,000 with a downtown city center with buildings modest in height that makes Berkeley a special place to live and a destination to visit, a treasure.
Response to 2211 Harold Way Proposed Development by Kelly Hammargren

The voters in Berkeley elect our representatives in good faith that they will take care to protect the fabric of our community and prohibit actions and developments that work to the detriment of our city and bring harm to our Berkeley residents and those who visit. We expect our representatives to make decisions in good faith and not to be swayed by investor money, investor promises and personal gain whether that gain be monetary or vision of legacy.

Just as I had no knowledge of the 2211 Harold Way Development prior to November 12 neither did most of my neighbors in our neighborhood communication group. On November 15, 2014, I shared the following summary. It should be noted that searching the Zoning Adjustment Board website, the contact information given is the clerk@cityofberkeley.info. Through the mailers I learned that the response submission process by email is to Aaron Sage at asage@cityofberkeley.info.

Below is a summary from attending the Zoning Adjustment Board in Berkeley Thursday evening (Nov 13) on building use permit #13-10000010’s an 18 story 302 apt/condo highrise plan that is moving through the Berkeley approval process.

Instead of walking down Shattuck to the Landmark Shattuck Theaters or possibly taking children to Habitot Children’s Museum with this building all that is known will be replaced with an 18 story apt/condo complex filling out the block from Harold to Shattuck, Allston and Kittridge. To sign the online petition to extend public comment go to http://www.ipetitions.com/petition/save... note you do not have to be a resident of Berkeley or registered voter to sign as Zoning Board members expressed concern of the impact of this proposed building on visitors to Berkeley.

To submit comment to the Berkeley Zoning Board email: clerk@CityofBerkeley.info

Meeting Summary - Nov 13 Berkeley Zoning Board
The LA owners called HSR Berkeley Investments LLC of the building at 2211 Harold Way which includes the Landmark Shattuck Theater and Habitot Children’s Museum are moving their plan forward for building an 18 story 194 foot 302 apt/condo unit complex in Berkeley City Center. Whether there will be a mix of 2 and 3 bedroom condos and apartments, just condos or just apartments is unknown. There is no affordable housing included in this building (builders/ developers can pay an additional fee to exclude affordable housing in the building)

The planned 302 condo/apt unit highrise is at the location of 2211 Harold Way - (goes thru to Shattuck, Kittridge, Allston). If built the Shattuck Landmark Therater will be torn down along with Habitot Children's Museum http://www.habitot.org/ Members of the zoning board described the building plan as schizophrenic (Igor) lacking an inspired and integrated design (Sophie Hahn) unsatisfying design (Denise Pinkston), interrupting the downtown family triangle of Y, main library and Habitot Children's Museum (John Selawsky), potential sacrifice of city center attractions for thousands of residents and visitors for a 302 apt/condo complex (Michael A. Cohen), obstructing view of Bay from UC Berkeley Campanile (clock tower plaza) (Sophie Hahn and others) negatively changing skyline view from Shattuck (Prakash Pinto).

Donald Goldmacher film maker of the documentary Heist spoke on impact on film. Another speaker noted there is only a promise for theaters in new building and is not guaranteed plus loss of the
Response to 2211 Harold Way Proposed Development by Kelly Hammargren

Landmark Shattuck theaters for the 4 years of construction and the doubling of the lease cost in new building (per EIR document) would make reopening theaters unlikely. Representatives from Habitot Children's Museum spoke that in the EIR there is no plan for where and/or how to rebuild Habitot Children's Museum a widely used community resource for local and visiting families. There is also no reimbursement/starter cost for relocating and rebuilding the Habitot Children's Museum. Other community members spoke on the impact to Berkeley on the loss of these community resources and cultural activities.

One would think that with these comments from the Zoning Board and public comments on the detrimental impact there would be a cry for no, but instead this looks to move ahead - money ruling over common sense. If you are concerned please sign the petition, send public comment and share. Care and thought needs to go into where higher density buildings are located and the long term impact of those buildings in balancing increased density while preserving the fabric of our community and the activities and cultural programs that draw visitors to Berkeley and give reason for us to live here.

Public comment period to Nov 19 (request for extension to Dec 1 is not guaranteed) Public response matters.

As a voter, resident and homeowner, I ask the Zoning Adjustment Board to proceed with care and caution in their response to the 2211 Harold Way proposed development. If approved, this development will be with us for decades. The decision made here will forever change the fabric of our community. We all recognize this is not a simple decision. Please give thoughtful consideration to my response and those of everyone expressing objection to the 2211 Harold Way Development.

Through gathering petition signatures, canvassing Berkeley neighborhoods for weeks for the November 4 election and just talking to people, I have learned much about how residents and visitors feel about Berkeley and their concerns.

Much was made at the November 13 Zoning Adjustment Board meeting of the overwhelming defeat of Proposition R. The defeat of the ballot initiative is complex and outside investor money pouring into the defeat of R with talking points of preserve green Berkeley left voters confused and buried with misinformation. Even as I try to stay informed and voted yes on R, I did not know that the 2211 Harold Way proposed development lurked in the background along with the buying up of other city center property by outside investors for development. And, a $90,000 contribution for No on R came from Chicago.

A general rule of thumb to voters to a ballot initiative is if you don’t understand it vote no or don’t vote on that initiative. During the weeks of canvassing, Berkeley voters were often anxious to share their visions and concerns and just as often I found I shared their values, wanting to be a good citizen encouraging use of mass transit and creating a thriving livable city of independent locally owned businesses and an art, cultural and educational center. We shared the worry that too tight a reign on development stifle business. It is the balance between thoughtful controlled growth and development that we are seeking and it is development to the extent that it destroys the local economy, health and fabric of the
Response to 2211 Harold Way Proposed Development by Kelly Hammargren

Berkeley community that we abhor. Berkeley is a special place to live and visit, the essence we never want to lose through over development.

Obstruction of the current view of the San Francisco Bay and Golden Gate Bridge from Campanile Way was dismissed in the EIR as being unimportant, of no consequence. Let it be known that that Campanile Way is a destination. It is a rare occasion (one I have not experienced) to be at Campanile Way without being surrounded by visitors and residents and their guests from across the globe snapping pictures of themselves and the view from Campanile Way. The view from Campanile Way is a treasure to be preserved, not dismissed. This treasure, Sather Tower was designed and landscaped for us in 1914 and opened to the public in 1917. It is on the U.S. National Register of Historic Places and Berkeley Landmark #158. It is the focal location point of nearly every UC Berkeley Plan.

The Landmark Shattuck Cinemas are a destination for residents and visitors from across the bay area. While gathering petition signatures in front of the Shattuck Cinemas, I was amazed by the number of people who come from around the bay just for the films offered at the Landmark Shattuck Cinemas.

The cultural heritage of Berkeley brings visitors who while here attend movies, theater, museums, walk the city center, frequent our restaurants and contribute to the local economy. The triangle of the YMCA, Habitat Children’s Museum and main Library draw families to the city center. This variety of activities of which the Landmark Shattuck Cinemas and Campanile Way are a part gives a vibrant bustling city center in a setting that still holds the unique small town feel with its modest height buildings.

Diversity and affordable housing is central to Berkeley values. The proposed 2211 Harold Way development plan is to pay a fee in lieu of affordable housing. This may make the city budget look robust, but causes great harm to the residents who seek affordable housing.

If there are any doubts regarding the detrimental impact on the health and economy of Berkeley with the proposed 2211 Harold Way development, one only needs to look across the bay and to cities around the nation to the cascade of problems that follow development. And, this response does not even expand on the details of the future impact on Berkeley infrastructure and stress to available water, systems, government, climate, waste and the list goes on. Every part of Berkeley is impacted.

Please proceed cautiously, read your own words in the summary to my neighbors and please gather the strength to say no to the proposed 2211 Harold Way Development Plan.

Thank you
Letter 33

COMMENTER: Kelly Hammargren

DATE: December 1, 2014

RESPONSE:

Response 33.1

The commenter summarizes the Zoning Adjustment Board meeting, summarizes comments of others that are addressed elsewhere in these responses, appears to convey opposition to the proposed project, and states an opinion that there is no affordable housing included in the proposed project. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation and/or on-site below-market-rate units). The comments will be forwarded to the City’s decision makers for their consideration.

Response 33.2

The commenter states an opinion that there would be impacts to the Landmark Shattuck Cinemas and Habitot Children’s Museum. See Topical Response D, Demolition of the Shattuck Cinemas, and Response 18.5 for responses to this comment. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 33.3

The commenter expresses concern that the proposed project would change the fabric of Berkeley. The commenter states an opinion that Berkeley is a special place and opposes over-development. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 33.4

The commenter states an opinion that Campanile Way is a destination and that the view from Campanile Way is a “treasure.” Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response 33.5

The commenter states an opinion that the Landmark Shattuck Cinemas are a destination and that the YMCA, Habitot Children’s Museum, and main Library “triangle” draw families to Downtown Berkeley. See Topical Response D, Demolition of the Shattuck Cinemas and Response 18.5 for responses to this comment.
Response 33.6

The commenter states an opinion that the proposed project would pay a fee in lieu of providing affordable housing and that this harms persons seeking affordable housing. As discussed in Section 2.0, *Project Description*, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). Affordable housing mitigation fees, if paid, would support development of affordable housing in Berkeley.

Response 33.7

The commenter states an opinion that the health and economy of Berkeley would be adversely impacted by the proposed project, citing development in San Francisco and other cities. The commenter states an opinion that the proposed project would have impacts on Berkeley infrastructure, water systems, government, climate, and waste. Impacts of the proposed project on these environmental issues are discussed in more detail in the Infill Environmental Checklist, found in Appendix A to the Draft EIR. Impacts would be less than significant or less than significant with mitigation. The comment does not specifically conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
From: Eileen Hazel [mailto:eileenhazel@gmail.com]
Sent: Monday, December 01, 2014 10:55 AM
To: Sage, Aaron E.; Planning Dept. Mailbox
Subject: Please do not demolish the Shattuck Theatre!

Hello,
I just found out about this plan to demolish the Shattuck Cinemas - this is terrible! Please do not do this! As a long time Berkeley resident, I have been to movies there countless times. It is one of the few theaters in the East Bay that shows independent films, documentaries, and other non-mainstream films. It's a resource that we desperately need, and I urge the City Council to not allow it to be demolished.

Thanks,
Eileen Hazel
Letter 34

COMMENTER:    Eileen Hazel

DATE: December 1, 2014

RESPONSE:

Response 34.1

The commenter requests that the Shattuck Cinemas not be demolished. The commenter states an opinion that the theater is a resource that is desperately needed. Refer to Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
16 November 2014

Aaron Sage, Senior Planner
Land Use Planning Division
2120 Milvia Street, 2nd floor
Berkeley, CA 94704
Sent by E-mail to asage@cityofberkeley.info

Re: Draft Environmental Impact Report for 2211 Harold Way Project

The following comments address the impact of the proposed 2211 Harold Way Project, especially with regard to the historic views from the University of California, Berkeley campus. My remarks are founded upon my experience as Campus Planner for the Berkeley campus from 1978 to 1993, and, after retirement, researching and writing a book on the architectural and planning history of the campus.

The visual simulations (as shown in Figures 4.1-4, 4.1-5 and 4.1-7) in the Draft EIR clearly indicate a significant negative environmental impact that would result from the proposed project. In my opinion, the project would:

- Seriously compromise the historic view, in particular from Campanile Way.
- Cause an egregious affront to users of the campus and to the integrity of a famous, iconic Bay Area vista.
- Degrade the quality of experiences of thousands of daily occupants of the campus (some 36,000 students and 22,000 faculty and staff), as well as additional thousands of campus visitors and tourists.
- Ignore the architectural and planning heritage of not only the campus, but also the city and region, by visually debasing an historic vista that was conceptualized and established on sound regional urban-design principles. [This planning history is well-documented, beginning with the principles linking the campus to the Golden Gate, first established by landscape architect Frederick Law Olmsted in 1866, developed further by subsequent campus plans, and formalized in 1908 in architect John Galen Howard’s Hearst Plan. For details see Helfand, Harvey, University of California, Berkeley: The Campus Guide, Princeton Architectural Press, 2002.]

The proposed intrusion into this important vista is so blantly inappropriate that it is difficult to not have a sense of outrage about it. And it is puzzling why such an obvious mistake was not avoided in the first place, before the project even entered the EIR process. All of those involved with the project—developer, architect, and especially the City of Berkeley—need to be stewards of the larger environmental context as well, and should not have advanced the project to this point without adequately recognizing the significance of this impact and adopting design parameters to avoid it altogether.

It should also be recognized that while the visual simulations referred to above do clearly indicate this significant impact, I believe the potential impact is even greater than illustrated because the tall trees that currently tend to narrow the view corridor should not
be considered permanent and are subject to change by life cycle or campus tree management. Consequently, the visibility of the project would be even more intrusive as, over time, this tree silhouette is reduced and the view corridor effectively returned to a greater openness approaching its historic appearance.

Additionally, it is important to understand that this important view corridor is inseparable from Campanile Way itself. They are connected conceptually and visually, the axial Golden Gate view being the inspiration and focal point for Campanile Way, as well as for the Beaux-Arts plan of the entire campus. In my opinion, this relationship is a sacrosanct one, and it should be respected as such. I believe that intrusion upon this view corridor, as the project clearly would cause, could negatively affect the eligibility of a future historic listing for Campanile Way.

Unless this project is carefully redesigned to completely avoid compromising this important vista, I believe it would result in a serious architectural and planning blunder that will be regretted for many years to come.

Harvey Helfand
Former UC Berkeley Campus Planner (1878-93)
Author, *University of California, Berkeley: The Campus Guide*
Architect
Letter 35

COMMENTER: Harvey Helfand, Former UC Berkeley Campus Planner (1878-93), Author of *University of California, Berkeley: The Campus Guide*, Architect

DATE: November 16, 2014

RESPONSE:

Response 35.1

The commenter states an opinion that the visual simulations in the Draft EIR “clearly indicate” that the proposed project would significantly impact views, particularly from Campanile Way. The commenter further opines that the proposed project would degrade the experience of thousands of visitors to Campanile Way and would ignore the “architectural and planning heritage” of UC Berkeley. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response 35.2

The commenter states an opinion that the proposed project’s intrusion in to the westward view from Campanile Way is inappropriate. The commenter further opines that the significant impacts he believes are evident in the visual simulation are actually worse than illustrated because of the presence of vegetation that is temporary in nature. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response 35.3

The commenter states an opinion that the view corridor is “inseparable from Campanile Way itself.” The commenter expresses concern that the impact of the proposed project on the view from Campanile Way could negatively affect the eligibility of Campanile Way for future historic listing. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.
December 2, 2014

To: Planning Dept.
Re: 2211 Harold Way Project

I am writing to express a number of concerns regarding the DEIR development of 2211 Harold Way proposed for downtown Berkeley.

1. "The Residences at Berkeley Plaza is designed to be an innovative and contextual architectural expression in the heart of Downtown Berkeley. The building is a mixed use development containing 302 residential units and grand resident amenity spaces, quality retail and restaurants, and brand new state-of-the-art cinemas." [http://2211haroldway.com/benefits.pdf].

My 1st concern is why it is necessary to continue to pursue a policy of growth at all costs on a finite planet?

The proposed building will likely end up bringing in more upper class individuals who can afford to purchase an expensive condo unit in downtown Berkeley.

As can be seen from the very language posted on their website, this entire development is targeted not toward the current citizenry of Berkeley, but more upscale individuals who will likely buy very expensive condos in this development which promises "unmatched views, and boutique retail." This is clearly going to be detrimental to those who already live in Berkeley and enjoy the amenities that currently reside at this site, the most important of which is the Landmark Shattuck Cinemas. This blatantly contradicts the expressed concerns of members of the zoning board who bemoan the decline of the middle class in Berkeley.

2. There is no guarantee in this proposed development that there will be a significant percentage of affordable rental units, nor is there any guarantee that the units that are constructed will actually be rental units, as the developer admitted at the hearing on Thursday, November 13. We thus will be bringing in more high earners, similar to what is transpiring in San Francisco. How does this benefit the current residents of Berkeley? In point of fact, it is detrimental to the current residents of Berkeley who will see businesses that they have frequented evicted, and thus will be unable to enjoy those pleasures of everyday life.

3. Hidden in the language of the proposed development is the fact that currently Landmark Shattuck Cinemas pay $2 per square foot in rental for the space that they occupy. ("By comparison, the current lease with Landmark Theaters in the existing space is priced at approximately $2.00 per square foot Modified Gross (tenant pays only for utilities.")[http://2211haroldway.com/benefits.pdf]. It is clear from the developer's own language, that there is no guarantee that Landmark will be afforded this rental fee in the new building. On the contrary, their website indicates that the "subsidized" rent will be $3.50 per square foot, an increase of 75%. What this means practically speaking is either Landmark does not remain as the tenant for these movie theaters, or it has to substantially raise the ticket prices as well as the prices for the food and beverages they sell. This will obviously impose an additional burden on theatergoers, but in all likelihood will mean that Landmark will not renew its lease. When I spoke with the developer's representative on November thirteenth he acknowledged that at least 2 other theater groups would be interested in renting the theater space in the new building, which he considered a positive outcome.
Why is this a problem? The answer is quite simply that Landmark Theaters bring films to the Berkeley community and to all of its theaters nationwide that other theater chains do not. Here is their description of their mission. "Landmark Theatres is a recognized leader in the industry for providing to its customers consistently diverse and entertaining film products in a sophisticated adult-oriented atmosphere. Our theatres showcase a wide variety of films — ranging from Independent and Foreign film to 3-D movies and smart films from Hollywood. Landmark Theatres is the nation's largest theatre chain dedicated to exhibiting and marketing independent film." Landmark exhibits documentaries, some of which are locally produced here in the Bay Area and in Berkeley, foreign films, independent films and films that are made for a mature adult audience, in contrast to the films that play down the street made for a teenage audience. Thus the loss of Landmark Shattuck Cinemas would be detrimental to the cultural life of Berkeley citizens, and reduce the attractiveness of downtown Berkeley immeasurably.

4. Referring again to the document submitted by the developer, there is no provision made for the Shattuck Cinemas to continue operating while construction takes place around its theaters. If Landmark is forced to close the Shattuck while construction takes place, it effectively removes this vital cultural presence from the downtown area. Not only is this a substantial loss for the residents of Berkeley, but it will mean a significant economic loss for those downtown businesses who benefit from the foot traffic to the theater. Specifically, all of the restaurants that are visited by theatergoers, as well as other small businesses on Shattuck Avenue.

5. It has been brought to my attention that the real estate developer has purchased the property at 2211 Harold Way for $100 million. As we say in the real world, that is not chump change. The developer clearly wants to make a profit, and from my vantage point cares little about its detrimental impact on the community. We can see this in evidence already with the eviction notice given to the children's Habitot Museum. From the evidence presented on November 13 to the zoning board by various members of the community, this proposed development is detrimentally impacting the children of Berkeley.

6. "Section 23E.68.090.E of the Zoning Ordinance requires the following for buildings taller than 75 feet (emphasis added):
In order to approve a Use Permit for buildings over 75 feet in height under Section 23E.68.070.B, the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities."

The developer touts that he is providing significant community benefits in this project. But as one drills down deeper into the language written by the developer, it becomes clear that the critical issue of affordable housing is glossed over, with the implication that the developer will pay money to the city housing trust, in lieu of actually building affordable housing. This clearly indicates that this project is not intended to create new affordable housing, but instead create expensive high-rise condo units, similar to what is taking place in other cities across the country, and is wrapped in a green wash ribbon. This is not something that the citizens of Berkeley actually wanted when they were misled into voting No on measure R. It is instructive to see who were the major donors opposing measure R. They of course include all of the real estate developers who are either planning or developing projects in the city of Berkeley. What is a bit startling is that the current mayor of Berkeley loaned $10,000 to the No campaign. This shows how deeply intertwined real estate developers are with the mayor and several city Council members, and is a poor reflection on our democracy. Additionally, major funds were provided to this negative campaign by the Chicago Board of Realtors. One can only guess why this entity would spend money in the city of Berkeley. Perhaps
it has to do with the fact that Sam Zell lives in Chicago, as he buys up properties here in Berkeley California.

7. The project team met with several community groups, many on multiple occasions, including:
   Berkeley Architectural Heritage Association
   Downtown Berkeley Association
   Berkeley Chamber of Commerce
   Berkeley Public Library
   The League of Women Voters
   The YMCA
   Dharma College and the Mangalam Center
   UC Berkeley development office
   Representatives of Iron Workers Local 378 and Plasterers and Cement Masons Local 300
   The Berkeley Association of Realtors
   Friends of the Berkeley Public Library
   Building and Construction Trades Council of Alameda County

   The developer asserts that the project team met with "several community groups on multiple occasions." The above listed organizations are hardly representative of the community. For the most part they represent the business community and several nonprofit organizations.

8. "Outreach to numerous community groups found a strong desire for home ownership opportunities within this particular project. The Downtown Berkeley Association board members indicated an objective of increasing homeownership in the Downtown, and the Berkeley Association of Realtors confirmed numerous clients have expressed interest in condominium ownership in Downtown."

   The language used by the developer here again is misleading, as it asserts it reached out to numerous community groups though it only lists the Downtown Berkeley Association and the Berkeley Association of Realtors. That is hardly representative of the community at large in Berkeley. It is also clear from the above statement that local realtors are salivating at the opportunity to sell hundreds of popular units in this proposed building, while anticipating several thousand additional units coming online during subsequent years. Taken together, the impact of thousands of new condo units will not make Berkeley more affordable, rather it will have a detrimental effect on the ability of ordinary middle-class people to continue to live in Berkeley.

In conclusion, I believe this proposed building will unravel the cultural center of downtown Berkeley, resulting in significant economic loss to local businesses as well as depriving the East Bay of the opportunity to see films that are relevant to our lives, as well as entertaining. The plans for this building need to be drastically altered so that it blends into the downtown historic area, and does not disrupt the cultural, aesthetic and economic stability of the city.

Yours truly,

Bonnie Hughes
2322 Shattuck Avenue
Berkeley 94704
Letter 36

COMMENTER: Bonnie Hughes

DATE: December 2, 2014

RESPONSE:

Aside from the name, the date, and the first line, which states by way of introduction that the commenter has a number of concerns regarding the Draft EIR, this letter is essentially the same as Letter 28. Please see responses to Letter 28 for responses to these comments.
To the Land Use Planning Commission:

I am aghast to read that the City of Berkeley would consider destroying the view of the bay and bridge from Campanile Way on the UC Berkeley campus by approving a high-rise building on Harold Way. I have worked at the Bancroft Library, adjoining Campanile Way, for some thirty years and delight in the view every time I leave for home.

I am far from the only one. Aside from the Campanile itself, I strongly suspect that the view is the second-most photographed on campus. There are always people stationed at the top of Campanile Way with cameras in hand. And all the campus tours pause there.

The view is not only an unbeatable aesthetic experience. It is historic. In 1866, Frederick Law Olmstead—the illustrious landscape architect of New York’s Central Park and Golden Gate Park—was commissioned to create a comprehensive plan for the campus. A salient feature of the plan was a major east-west axis aligned with the Golden Gate. This orientation was duly created, as anyone on Campanile Way can readily see.

Even a partial obstruction of this iconic view would be a disaster. Please come and see for yourselves how obscuring this vista to any degree would diminish if not destroy its historic and aesthetic impact.
Letter 37

COMMENTER:  Sally Hughes

DATE:  November 17, 2014

RESPONSE:

Response 37.1

The commenter expresses concern regarding the project’s potential impacts on the view from Campanile Way. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 37.2

The commenter states an opinion that the Campanile Way westward view was a “salient feature” of Frederick Law Olmsted’s 1866 Plan for the College of California. This is not entirely accurate, as stated in Section 6.5 of the HRTR:

Frederick Law Olmsted’s 1866 Plan for the College of California (UC Berkeley’s predecessor) did not include an east-west corridor corresponding to today’s Campanile Way. Instead, Olmsted’s picturesque plan was organized around a central east-west axis that was located further north and passed through the campus’ Central Glade.

Section 6.5 of the HRTR has been revised to more clearly describe the establishment of the Center Street path/Campanile Way. See also Response 7-2.

Nevertheless, the general intent of the comment that the view has historic importance and was incorporated purposefully into the design of Campanile Way is correct, and this is reflected in the Draft EIR in Section 4.1, Cultural Resources.

The commenter goes on to express an opinion that even the partial view obstruction that would result from the proposed project would “diminish if not destroy its historic and aesthetic impact.” Please see Topical Response B, Impacts to the Westward View from Campanile Way, for responses to these comments.
From: Cynthia Johnson [mailto:cyn4pacificagmail.com]
Sent: Monday, December 01, 2014 9:38 AM
To: Sage, Aaron E.
Subject: STOPPING DEMOLITION of the LANDMARK SHATTUCK CINEMA

December 1, 2014

Re: Public Comment to Zoning Adjustment Robard
To: Honorable Aaron Sage, Senior Planner
Land Use Planning division
2120 Milvia Berkeley CA 94704

Dear Mr. Sage,
On behalf of our Berkeley Unitarian Universalists Social Justice Committee (www.bfuu.org) we are strongly petitioning against the Development Plan for 2211 Harald way, Berkeley, CA.
It seems to be quite clearly a plan that is not popular with the great majority of City residents.

We need to keep the character of the Berkeley Community. People come from all over the Bay Area and further to go to a Landmark Theater and the type of films it offers. We do not need an AMC, Regal or a theater that is plastic and lacks any historic character. That is the plan of Theater conglomerates according to a recent NYT article.

Our members easily get Berkeley and non-Berkeley citizens to sign the petition to not demolish the Landmark Shattuck. It is a real draw for the downtown businesses.

There are so many reasons, seemingly democracy just for starters, to not go ahead with this 2212 Harrald Plan.

We, the Social Justice Committee Members, would like a response on this and possible assurance that this is not simply for luxury condos? Our understanding is that we already have available unaffordable housing but do need more affordable housing. And 18 stories? We thought there was a Green Plan?

Sincerely and respectfully with deep hopes as a faith community that the Zoning Adjustment Board will take our concerns seriously.
We our Committee also wishes to convey our gratitude for your public service on this Zoning Adjustment Board which is so significant.

cynthia Johnson
Social Justice Vice Chair
1606 Bonita Avenue
Berkeley, CA 94709
Please respond to this address.
Tel # Hal Carstad Social Justice Center 510-275-4272
BFUU Office 1924 Cedar Sanctuary 510-841-4824
Cynthia Jean Johnson is an elected representative currently serving on the 94.1 KPFA Local Station Board (LSB), Vice Chair of the Berkeley Fellowship Unitarian Universalists Social Justice Committee, Board member of the Ecumenical Peace Institute and the Task Force on the Americas.
Letter 38

COMMENTER: Cynthia Johnson

DATE: December 1, 2014

RESPONSE:

Response 38.1

The commenter states opposition to the proposed project and states an opinion that the proposed project is not popular with the “great majority” of Berkeley residents. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 38.2

The commenter states an opinion that people come to Berkeley to go to the Shattuck Cinemas and that many people signed the petition opposing loss of the theater. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 38.3

The commenter requests assurances that the proposed project is not for luxury condos and expresses that Berkeley needs more affordable housing. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. The potential cost of the project’s market-rate residential units is not an environmental topic under CEQA.
From: James Johnson [mailto:shadowjack2003@yahoo.com]
Sent: Monday, December 01, 2014 9:17 AM
To: Sage, Aaron E.
Subject: Shattuck Cinemas

We protest the plan to demolish the Landmark Shattuck Theatre as part of the development plan for 2211 Harold Way, and ask for extension of the public comment period from November 18 to December 19 so adequate public comments on this important issue can be gathered. We also request a special Berkeley City Council meeting to address this project.

This architecturally superb theatre is a central gem of the Berkeley Arts District and draws people from all around the Bay Area. Public comment on this project has been rushed through without adequate notice or public Input. In the past several years (beginning with The Rialto on Gilman Street) 7 theaters have closed in Berkeley. The last building take over was of The Fine Arts. The promise to build a replacement theater was realized in the form of the marquee that reads Fine Arts—and no theater. The Shattuck brings many people to Downtown Berkeley restaurants and other businesses, resulting in a vibrant Cultural center of the city. People come from as far away as Sacramento and stay overnight to see a film. The Shattuck shows documentaries, indies, and the best foreign films. Absent the Shattuck, the business will shift to SF, and Berkeley will become a cultural desert for cinema. We can stop this from happening by making our voices heard now.

James Johnson
Letter 39

COMMENTER: James Johnson

DATE: December 1, 2014

RESPONSE:

Response 39.1

The commenter states opposition to the demolition of the Landmark Theater and requests an extension of the public comment period. See Response 16.1 for a response to this comment. The commenter also requests a special Berkeley City Council meeting to address the proposed project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 39.2

The commenter expresses support for the existing Shattuck Cinemas and opposition to its proposed removal. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
Hello.
I want to comment on the proposed project at 2211 Harold Way. When I look at the line of site toward the Golden Gate Bridge from the the Campanile on the UC Berkeley campus, and compare that to the proposed height of the structure at 2211 Harold Way I am concerned that an important landmark in Berkeley, the famous view from the Campanile, will be significantly marred by the new building. Surely this is not worth a few new housing units in the downtown.

Sincerely,
Keith Johnson
2316 Jefferson Ave.
Letter 40

COMMENTER:  Keith Johnson

DATE:  November 24, 2014, 11:10 PM

RESPONSE:

The commenter expresses concern that the proposed project would “significantly” mar the view from Campanile Way. Please refer to Topical Response B, Westward View from Campanile Way, for a response to this comment.
Hello. My name is Keith Johnson. I live at 2316 Jefferson Ave in Berkeley and I would like to communicate a concern to the City Council. This has to do with the building proposed for the site of the old Kress department store (in the block shaded blue below, between Shattuck and Harold Way, Allston Way and Kittredge St.) 2211 Harold Way.

This weekend I was handed the flyer that is scanned and attached to this message. The flyer claims that the building project will obstruct the very famous view of the Golden Gate Bridge from the Campanile on the UC Berkeley campus. Looking at this on the map, I think the author of the flyer may have a point.

My concern is that this point is not being taken seriously as a part of the EIR, and may not be considered when deciding whether to approve the project. I think that it would be short-sighted to allow this building to mar one of Berkeley's important landmarks - the view of the Golden Gate from the Campanile.

thanks,
Keith Johnson
COMMENTER: Keith Johnson

DATE: November 24, 2014, 11:38 PM

RESPONSE:

The commenter expresses concern that the Draft EIR does not consider impacts to the view from Campanile Way “seriously.” These impacts are discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR. Please refer to Topical Response B, Westward View from Campanile Way, for a response to this comment.
From: Keith Johnson [mailto:cycle1105@gmail.com]
Sent: Tuesday, November 25, 2014 9:01 AM
To: Sage, Aaron E.
Subject: further comment on 2211 Harold Way

Thank you very much for the opportunity to comment on the proposed plan to build at 2211 Harold Way. This is a city-changing project and should be done in such a way that it is a delight and amazement to the citizens of Berkeley and to those who look to Berkeley for an example of forward-thinking city planning. I hope that my comments will be of some small value toward these goals.

Looking over the plans for the project, I would say that overall I am excited about it and see much good. I have commented earlier that the overall height of the project (and particularly the line-of-sight from the UC Campanile) is a concern.

In this short note I just want to add two comments regarding the Community Benefits document that has been submitted with this plan.

(1) The document states that the community benefits from the project because the owner will rent movie theater space to Landmark Cinema at a rate of $3.5/sqft (vs the current rate that Landmark pays $2/sqft, and vs. the claimed $6.5/sqft that the owner could or should expect for such theater space). The document then claims that this benefit will be provided to the city for 20 years, and thus the 20 year value of the benefit was added to the "bottom-line" of community benefits provided by the project. I don't see anywhere in the documentation (and this may be a function of my lack of time to read it all) any proof that the city will actually see this benefit for the claimed duration. I think that it is reasonable, before allowing that the 20 year benefit can be counted on, to require either that some proof be offered that the city will see this benefit for the claimed duration, or that the amount of the community benefit be reduced to the value that can actually be guaranteed.

(2) One persistent problem in downtown Berkeley is the number of apparently homeless people who camp in public spaces in the downtown and frankly pee in any secluded spot they can find. This is a perplexing problem and not one that the builder can be expected to solve, nonetheless if the builder could dedicate some of the resources of the project (say part of the "spa" space on level 1, toward homeless services (like a place to take a shower or urinate off the public streets) I would consider that a meaningful contribution toward a solution to a vexing Berkeley problem. This suggestion might be totally wrong-headed, but I think in the context of Community Benefits it makes sense to raise a pressing community problem and see if through citizen input some improvement in this aspect of downtown Berkeley could be made.

thanks again for extending the time available for public comment.

Keith Johnson
2316 Jefferson Ave
Berkeley
Letter 42

COMMENTER: Keith Johnson

DATE: November 25, 2014

RESPONSE:

Response 42.1

The commenter expresses concern with the height of the proposed project and its impact to the view from Campanile Way. Please see topical responses A, Project Visual and Historic Compatibility Impacts, and B, Westward View from Campanile Way, for information on these topics.

Response 42.2

The commenter requests proof that the project applicant would rent the proposed theater facility to Landmark Theaters at a rate of $3.50 per square foot for the 20 years described in the project applicant’s Community Benefits Document. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 42.3

The commenter suggests that the Community Benefits Document require the project applicant to include a space in the proposed project for homeless services, such as a shower and restroom. The commenter states an opinion that this could help address the community’s current problem with public urination. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
Hi Aaron Sage,

Is emailing you the appropriate way to provide public comment for the project of 2211 Harold Way? If so:

As a parent member of the Berkeley High School Safety Committee, I was told that the environmental impact report did not consider Berkeley High School in the EIR. If this is true, this does not seem right, given the proximity of Berkeley High School to the project, and the fact that UC Berkeley was included, even though it's farther away. I actually really support building more housing in Berkeley, however, I think a consideration of the environmental impacts of this project on Berkeley High School are needed. Personally, I would like to know if noise from construction would be audible from classes at Berkeley High School, and if so, if mitigation could include having the noisiest part of construction occur during the summer months, after 3:30pm, or on weekends, so that BHS classes were not disrupted by the noise. That is my personal concern, I am only one member of the Berkeley High School Safety Committee, however, there seems to be consensus on the committee that Berkeley High School needs to be considered in the EIR.

Thank you,

Melissa Kealey
Letter 43

COMMENTER: Melissa Kealey

DATE: November 19, 2014

RESPONSE:

The commenter states an opinion that the Draft EIR should consider the potential environmental impacts of the proposed project on Berkeley High School, due to its close proximity to the project site. The Draft EIR considers potential environmental impacts to all sensitive receptors, including Berkeley High School, in the vicinity of the project site. Please see responses to letters 9 and 13 for more information. The commenter also asks if the construction-related noise from the proposed project would be audible at Berkeley High School and requests that construction be made to occur in the summer months or after school hours. Although it may be audible at times from some locations on campus, noise levels would not exceed significance thresholds. Please see responses 9.5 and 13.2 for further responses to this comment.
From: Linda Keilch <lindakeilch@yahoo.com>
Date: December 1, 2014 at 12:29:54 AM PST
To: "asage@cityofberkeley.info" <asage@cityofberkeley.info>
Subject: 18 story Bldg. At old Hinks Bldg.

My husband and I object to a building of this size at this site. It will obstruct view from the campus that are historic from the campanile at UC Campus. Beside this the cine s's will no longer exist, which are a major entertainment for the community and bring business into the downtown.

The building may also not accommodate lower income dwellings, or provide needed parking for an already congested downtown or bathrooms for the public. Developers are set to make money on this project, to the negative affect to the community. Please do your duty to protect our community and heritage!

Berkeley needs to control growth so that we may retain a sense of community! Do not sell us out to those who have no idea of community and just want to profit!

Please do not approve this development!

Thank you,
Linda and Patrick Keilch

Sent from my iPad
Letter 44

COMMENTER:  Linda and Patrick Keilch  
DATE:  December 1, 2014  
RESPONSE:

Response 44.1  
The commenter objects to the size of the proposed project. See Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. The commenter also states an opinion that it will impact the view from the campus. See Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response 44.2  
The commenter states an opinion that the theater is a major source of entertainment for the community and brings business to the area. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 44.3  
The commenter states an opinion the proposed project may not accommodate affordable housing or provide needed parking and bathrooms for the public. The commenter requests that Berkeley’s “community and heritage” be protected. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). The Draft EIR includes an analysis of parking demand generated by the project. No significant impacts related to parking were identified.

Response 44.4  
The commenter states an opinion that Berkeley needs to control growth in order to “retain a sense of community” and requests that the proposed project not be approved. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
Enid,

Thank you for your continued attention to the safety of our students. While I agree with you that Harold Way is a mere half-block from the main entry to BHS and that all students commuting by BART or bus would likely walk past Harold Way on their way to school each day, I cannot formulate a reasonably complete response to the city by 5 PM today because I am totally unfamiliar with the Harold Way project and what it entails. I am a new resident of Berkeley and have not followed city development plans. This is the first I have heard of the project or its relevance to the operations of BHS or our students.

However - after a quick Google of the project title, I agree with you that the impact upon the city's high school should be a part of the EIR due to magnitude of the proposal and the close proximity to BHS, and the impacts the project may impose to the students and school. I have no idea if the concepts of this project have been part of discussions with BHS or BUSD administrations either publicly or privately, and unfortunately I do not have time to examine the current scope of the project before today's response deadline.

David Kirwin
BHS Facility & Operations Manager
1980 Allston Way
Berkeley Ca 94704
510 644-4567 (office)
510-812-0217 (cell)
Letter 45

COMMENTER: David Kirwin, Berkeley High School Facility and Operations Manager

DATE: December 1, 2014

RESPONSE:

The commenter states an opinion that the potential impact of the proposed project on Berkeley High School should be included in the EIR due to the proximity of the school to the project site. The Draft EIR considers potential environmental impacts to all sensitive receptors, including Berkeley High School, in the vicinity of the project site. Please see responses to letters 9, 13 and 43 for more information and responses.
As a Berkeley resident of some 45 years I am quite concerned about the impact of a large condo building in the middle of downtown.

We need homes for poor people, we need parks, we need less congestion; we need less concentration of people.

What will be the impact on quality of life for those who are here? How does this create a sense of community in our city? How do people really feel about this? Who is involved in planning this monstrosity. When Tom Bates became mayor he began raising the heights of building. Wasn't it 4 floors back in the 80s? What is happening!

Please make sure that the dialogue for this is kept open and people whose lives will be affected can be part of the discussion.

Thank you

Karl Knobler, Ph.D.
Letter 46

COMMENTER: Karl Knobler, Ph.D.

DATE: December 1, 2014

RESPONSE:

Response 46.1

The commenter states an opinion that there is a need for affordable housing, parks, and less congestion in Berkeley. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units). The proposed project’s potential impact to recreation and parks is discussed under Item XV, Recreation, of the Infill Environmental Checklist in Appendix B of the Draft EIR and were found to be less than significant without mitigation. The proposed project’s potential impact to congestion is discussed in Section 4.2, Transportation/Traffic, of the Draft EIR and would be mitigated to a less than significant level through implementation of Mitigation Measure T-2.

Response 46.2

The commenter asks what the impact of the proposed project would be on the quality of life in Berkeley. The environmental impacts of the proposed project are analyzed throughout the Draft EIR. This comment does not challenge or conflict with the analysis or conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
The following is the public comment of the Stop the Demolition of the Landmark Shattuck Theater Committee:

The Draft EIR presented for the Harold Way Project is inadequate and should be rejected and a new Draft EIR prepared

1. The Draft EIR fails to recognize the Landmark Shattuck Theater as a significant cultural resource and cultural landmark.

• The Landmark Shattuck Theater is the major showcase in the East Bay for independent films, documentaries and film festival winners.

• Unique high quality films are shown that are not available at other locations

• The theater serves as a major outlet for the diverse Bay Area and international film community which forms a significant part of Berkeley’s cultural identity

• No other theater can replace this:
  The removal of the theater is a large and recognized detriment to the cultural environment of Berkeley. It removes a cultural icon from the center of our business and arts district having major negative effects on residents and out of town visitors and on our vibrant business and cultural community

The theater attracts visitors from all around the greater SF Bay Area

• According to comments from out of town visitors:
  “The Shattuck Theater is the only reason that I come into Berkeley nowadays-for dinner and a movie.” (Walnut Creek Resident)
  “We come from Sacramento on Saturday to go to a film at the Landmark Shattuck, spend the night and shop the next day.”
2. The structural and historical connection of the Landmark Shattuck Theater to the landmark status of the Hinks Department Store is not recognized

- The EIR does not adequately deal with the joint impact of the project on the Hink’s Department store and the Landmark Shattuck Theater which has preserved the Hink’s Historical Landmark by restoring and renovating it in conjunction with its original design and construction of the theater,

- The theatre itself is surrounded by the Hinks Historical Landmark and encloses historically landmarked and significant and character defining features of the Hinks Department store.
  The Architectural; Inventory of significant features and the impact of the project on them is incomplete without consideration of the theater that protects them

- The soffit plaster ornamental ceiling in the entryway arcade stretching into the theater lobby itself has been carefully preserved and restored by the Landmark Shattuck Theater giving the theater a splendor and beauty reminiscent of the old era movie houses so essential to California’s film history. The ceiling is defined in the EIR by the consultant Architectural Resource Group as a character defining interior feature.
  The probable destruction of this ceiling and its salvage seems to be an invasion into the historic value and historic designation of the Hink’s Department Store. Since the Landmark Corporation has taken extraordinary steps to preserve and protect this ceiling and since it is an integral part of their theatre design it follows that preservation of this character defining feature is entwined with the preservation of the theatre itself.

  One might also ask if the architectural inventory process included probes and excavations or x rays to determine if other parts of the soffit ceiling and other character defining features of Hink’s lay hidden underneath the walls and drop ceilings of the theater and the adjoining businesses that are also slated for demolition. This should be carefully determined and required for the EIR and constitutes another flaw in the procedure if it has not been required.

  BAHA has criticized the removal of this ceiling and asked for its preservation In situ.

  There is mention of a decorative frieze stretching along the elevation above the transom windows, with the letter “S” appearing at the cap of each major pilaster (These elements appear to be original, but may have been restored over time). This is a bit obscure as to where it currently exists and may refer to the ceiling inside the theatre above the concession area. Whether this is character defining is unclear.
However its high beauty is well in keeping with the original Hink's ceiling design and has been masterfully integrated into the rest of the historical monument.

From the SHP Guidelines:
"In order for an important historic resource to retain its significance, its character-defining features must be retained to the greatest extent possible. An understanding of a building's character-defining features is a crucial step in developing a rehabilitation plan that incorporates an appropriate level of restoration, rehabilitation, maintenance, and protection"

- The mitigation for this demolition of the remaining Hinks historic features is "salvage," donating them to local historical societies and if not taken dismantling them into pieces and turning them over to private businesses for salvage.

3. The theater demolition and its impact and detrimental effect on the community and businesses in the area is not mentioned as part of the impact.s in this EIR.

- The developers stated in their introduction that there was strong community concern about the demolition of the theater and that is why a "new 6 screen state of the art multiplex theater" was placed in the plan. If this is so why isn't this mentioned in the Scoping Session and why weren't more groups concerned about the theatre invited to comment on the adequacy of the mitigation.

- The scoping sessions in general at the Landmarks Commission and the ZAB seem to include a wholly inadequate range of comments from the general public. The Landmarks Commission meeting which should have included specific discussion of the demolition of the Landmark Shattuck Theater and its importance to the public is strangely devoid of any comments on this issue. Public comments only seem to include three speakers from one community based organization
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- Considering the reaction to the EIR by recent petitions in November by over 1400 Berkley citizens and other visitors to the theater, many people would have been very concerned to comment, However they were not aware of the demolition plans. The reaction of over 90% of these signatories, many of them Berkeley community activists at a post office rally was shock and dismay at this plan.

- The acknowledgment of this inadequacy of public input was validated by the Landmarks Commission, the Zoning Adjustment Board (ZAB) who requested an extension to the public comment period. This was granted by the Berkeley Planning and Development Department who granted a short extension on the public comment period of the EIR based on our testimony. This does not remedy our objections to the EIR itself but it does at least speak to the flaw of public input and noticing pointed out by the Save the Landmark Shattuck Theater Committee.

4. Misrepresentation of the theater and their condition, with “dilapidated theater boxes” and a deteriorated marquee is used in this EIR to partially justify the destruction of the theaters.

- The theater is mentioned in passing only two times in the body of EIR as “deteriorating theater boxes” despite the fact that it was extensively renovated by Landmark: in 2009.

  The theater went through an extensive renovation only 5 years ago when interior theatre seats were replaced, two completely renovated small theaters were installed with comfortable double seats; an elegant separate snack bar area, “The Lot,” providing alcohol and snacks that can be taken into several of the theaters was added.

- Thus the EIR is misleading and inaccurate as to the condition of the theatre and the EIR’s failure to analyze the significant impact of demolishing it.

- This misrepresentation combines with the mostly untrue claim by the developers that the substitute replacement theaters are a satisfactory solution.

- This claim perhaps charade of public input is contradicted by our collection of over 1400 signature from theatergoers in the month of November, alone. Over 90% of both residents and visitors were shocked and outraged to hear about the plan to demolish the theater and furthermore had not even heard of this. They registered shock at hearing of this plan and expressed strong opposition, providing written comments opposing the demolition of the theater in the strongest terms. We can only conclude
that the supposed support for the developer's new theaters is to say the least, a gross exaggeration.

- Furthermore the absence of any theater at all until at least 2018, the estimate for the completion of the project, is unacceptable.

5. The EIR process was not properly conducted to solicit adequate public comment.

The initial project announcement passed under the radar of many of our community activists and many relevant community organizations were not notified

- The project is characterized by the planners as one of the largest development projects ever attempted in the City of Berkeley

- The Scoping Session, where the important issues are first laid out for comment and public input, was also inadequately publicized for such a major project. These comments become the main basis of publicly identified issues in the Draft EIR. This is evidenced by the poor organizational response (BAHA, an organization that carefully watches all projects that have impact on historical landmarks) was the only major organization that attended the scoping session and offered comments *only three people commented at the scoping session at the Landmarks Commission from one community organization (BAHA)

- The EIR process requires notification of relevant organizations posting on local media careful posting of notices not only on yellow project sheets but in media and other public places despite this clear direction:

- There was not an adequate distribution list of relevant organizations that should have been informed. Aside from the surrounding institutions the Berkeley Main Post Office the Berkeley Public Library and the Berkeley YMCA, the only other institutions were the Camber of Commerce and mystifyingly the Building Trades Council.

BAHA was the only nonadjacent nonprofit community organization present at the scoping decision

- Berkeley has a very strong network of community organizations including many nonprofit with extensive global network connections for city projects; To our knowledge none of these were specifically informed of the EIR process and schedules

- Berkeley also has an important network of electronic media including online newspapers and broadcast radio stations (To whit KPFA community radio centered in
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Berkeley) and other Bay Area public radio stations (KALW, KDFC and KQED (which includes NPR and PRI) with a vital and involved body of investigative journalists.

- To our knowledge only the Berkeleyside online newspaper contained articles on this issue (Only 2 by Berkeleyside mainly based on interviews with the developers and with no comments by the diversity of public figures and institutions that usually present a variety of views especially on major developments)

Public Input through Elected Officials:

City council in most matters is the main source of community examination and they cannot involve themselves in development matters under the purview of the ZAB since by law the ZAB is final arbiter unless is appealed which is a process that requires further large community expenditure and is not assured. Therefore the EIR has become the main and in fact only path for input as our city council the main source of community examination does nor air public input unless the project is appealed. Thus process of this EIR has largely been largely closed to our residents.

- The Petition:
Understanding these limits of public input, our committee instigated a petition to gauge the level of support for the theater. Our petition to extend the comment period was based on this fact.

- Over 1400 people have signed two versions of this, both residents and theatergoers. The signatories include a significant number of community activists who regularly follow local issues closely. The reaction of over 90% of these signatories expressed ignorance and shock at the plans to demolish this theater. The demands of the original signatories were threefold:

1. Delay the public comment deadline until December 19 so adequate public comments on this important issue can be gathered

2. Stop the demolition of the Shattuck and allow it to continue unimpeded in its current location

3. Hold a special city council meeting to address this project;
6. Removing The Landmark Shattuck Theater will be a major detriment to revenues in our Downtown Business District

- The theater demolition and its impact and detrimental effect on the community and businesses in the area is not mentioned as part of this EIR.

- The removal of the theater will be a large and recognized detriment to business in Berkeley. It removes a cultural icon from the center if our business and arts district having major effects on residents and out of town visitors who come to our theater and to our vibrant business and cultural community.

- According to comments to our petitioners from visitors from out of town
  “The Shattuck Theater is the only reason that I come into Berkeley nowadays for dinner and a movie (Walnut Creek Resident)

  Another visitor says: “We come into Berkeley from Sacramento to spend the night, see a movie, and shop on Sunday.”

- In our collection of 1400 signatures (since the petition drive began on November 1), We have found at least 30% of the film goers are from out of town: Oakland, San Francisco Hayward, San Leandro and even San Jose; some from further way traveled up to 1 hour to get to Berkeley
  The furthest distance noted in a preliminary look at the petitions was from Sacramento, Fairfield and Benicia.

- We currently have thriving restaurants in the business district surrounding the theater. Our preliminary surveys indicate that a substantial percentage of people who eat here especially in the Center Street Cafes are eating before or after going to the theater.

- We believe that there will e a substantial loss of business for a minimum of four years or until the completion of the project. The loss of business from Landmark Shattuck customers, we believe for the reasons stated above will be irreparable.

  Our developer speaks of future financial benefits of up to One Million dollars a year. These of course will only begin after 2018, the earliest date that we can expect a completed project. While it is closed, the removal of the theater will actually be a major detriment to downtown Berkeley. Match this against the current financial benefits of our theater district and particularly of the Shattuck. Of course this does not include the important benefit of good will (a recognized business asset and Berkeley city asset) of people who come to go to the theater and visit other stores museums, and theaters in our central district and the good will that it generate to people about Berkeley to encourage them to return another day to shop and enjoy our vibrant culture, our
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shoreline parks and restaurants, our good weather, clear days free of fog and some of 
the warmest winter average temperatures on the Bay.

Conclusion:

We ask the administration of the City of Berkeley and the Planning Agency to consider 
what will be harmed by the demolition of the Landmark Shattuck. Planning of 
development, commerce and culture in a city must have long range planning and not 
based on short term and temporary profits from development. We will not attract new 
people to move in just by offering generic condominiums for the wealthy available in 
many other cities. It is the energy and the culture of a city that attracts people and 
Berkeley has a culture that is unique. Development must act with belief in and 
understanding of the future and its needs.

In conclusion we believe that this Draft EIR was clearly based on a deeply flawed 
process. We believe that a new draft EIR must be prepared in accordance with CEQUA 
which requires a new draft EIR when major issues in the environmental review are not 
adequately addressed.

Presented by

Paul Matzner  
2415 Blake St,  
Berkeley  
CA 94704

Stop the Demolition of the Landmark  
Shattuck Theater Committee
Letter 47

COMMENTER: Paul Matzner

DATE: December 1, 2014

RESPONSE:

Response 47.1

The commenter states an opinion that the Draft EIR is inadequate and should be rejected. This comment is noted. The subsequent comments provide details of the commenter’s opinions about the Draft EIR and are addressed below.

Response 47.2

The commenter opines that the Draft EIR fails to recognize the Shattuck Cinemas as a significant cultural resource, despite the fact that the theater is “unique” and attracts visitors from across the Bay Area. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 47.3

The commenter states an opinion that the Draft EIR does not recognize the “structural and historical connection” between the Landmark Shattuck Cinemas and Hink’s Department store. The commenter opines that the “architectural inventory of significant features” and the potential impact of the proposed project is “incomplete without consideration of the theater that protects them.” Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 47.4

The commenter states an opinion that interior theater decorations are historic resources and should be preserved on site, such as the soffit plaster ornamental ceiling and decorative friezes. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. Concerning the ceiling plasterwork in the 1913 and 1926 additions to the Shattuck Hotel and the entry arcade, Mitigation Measure CR-1(b) is revised on pages ES-5 and 4.1-28 as follows:

CR-1(b) Salvage. The project applicant shall give local historical societies the opportunity to 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 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.

Response 47.5

The commenter opines that the theater demolition and resulting impacts to the community and businesses are not analyzed in the Draft EIR. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. In addition, this comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration. The commenter also asks why more groups concerned about the theater weren’t invited to comment on the adequacy of the Draft EIR mitigation. The commenter expresses concern that the Landmarks Preservation Commission did not include specific discussion about the proposed demolition of the Landmark Shattuck Theater and that public noticing was inadequate. Noticing for the Draft EIR is described in Section 1.2 of this Response to Comments document, and exceeded state requirements for public notification. The comment period began on October 3, 2014 and was extended to 57 days and ended on December 1, 2014. The City held hearings on the Draft EIR before the Design Review Committee on November 4, 2014; before the Landmarks Preservation Commission on November 6, 2014; and before the Zoning Adjustments Board on November 13, 2014. This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

Response 47.6

The commenter states an opinion that the Draft EIR misrepresents the Shattuck Theater as “dilapidated [sic] theater boxes.” This comment is noted, and the City agrees. The language referred to is not the City’s but rather is directly from the project objectives provided by the applicant. Nevertheless, the words “aging deficient” have been deleted and replaced with “the” in the Final EIR where they appear on pages 2-57, 5-17 and 5-22. The commenter also restates an opinion that the Draft EIR failed to analyze the significant impact of demolishing the theater. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 47.7

The commenter states an opinion that the proposed project’s construction of new theaters is not a solution as the theaters will be absent until 2018. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. The commenter states that over 1,400 signatures were collected in opposition of the demolition of Shattuck Theater. This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.
Response 47.8

The commenter states an opinion that public noticing was not sufficient to solicit public comment on the Draft EIR. The commenter expresses concern that the Scoping Meeting for the proposed project was inadequately publicized and that there was an inadequate distribution list of relevant organization. Please see responses 29.1 and 47.5 for a response to this comment.

Response 47.9

The commenter states an opinion that the EIR is the “main and in fact only path for input” and that the EIR process has been closed to public input. Please see responses 29.1 and 47.5 for a response to this comment.

Response 47.10

The commenter states that 1,400 people signed a petition to extend the comment period for the Draft EIR, to stop the demolition of the Shattuck Cinemas, and to ask for a special City Council meeting about the proposed project. As described in Response 47.5, the comment period was extended to 57 days. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 47.11

The commenter opines that the demolition of the Shattuck Cinemas would be a “major detriment to revenues in the Downtown Business District” and that this is not mentioned in the Draft EIR. This comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 47.12

The commenter requests that the City of Berkeley administrators and Planning Department carefully consider what the impact of the demolition of the Shattuck Cinemas would be on the Berkeley’s future commerce and culture. The commenter also states an opinion that the Draft EIR is based on a “deeply flawed process” and requests that a new Draft EIR be developed to adequately address “major issues in the environmental review.” Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
From: James P. McFadden [mailto:mcfadden@ssl.berkeley.edu]
Sent: Monday, December 01, 2014 4:58 PM
To: Sage, Aaron E.
Subject: 18 story high rise

Aaron Sage,

Regarding the 18 story, 194-foot high tower in Downtown Berkeley.

This monster development will obstruct the cherished vista from the base of Sather Tower including most of Alcatraz Island, much of the expanse of the Bay, and even part of the Golden Gate Bridge. This view could be forever blocked by the new building. The draft Environmental Impact Report acknowledges the view loss, but claims it would be 'less than significant'. This will be to the detriment of our culture and quality of life.

In addition, the new development will remove the Shattuck Theater and Habitot, both Berkeley treasures. The Shattuck Theater is one of the few venues that shows documentaries and cultural films (as opposed to movies), and sponsors film festivals. It does this in a refurbished classic theater whose design itself is a work of art. Habitot is a wonderful children's center whose mission is to benefit a broad audience of families raising young children - exposing them to culture, art, and education. A development that destroys these cultural icons does not improve the quality of life in Berkeley.

This 18 story development will also be bad for small businesses, and for employees of these businesses. If Berkeley's City Council and Zoning Adjustment Board are allowed to wave height restrictions in exchange for short term revenues, then the net result will be an increase in all rents for all of downtown Berkeley. This will drive away small businesses, destroy Berkeley's small town feel and charm, and replace moderate paying jobs with minimum wage jobs. This is in addition to the loss of business caused by noise and congestion associated with this massive construction. The long term debt and cultural losses from this decision will be paid by future generations.

All this will be to the detriment of Berkeley.

Please put the brakes on this monster development.

Regards,
Dr. James McFadden
Berkeley Resident and UCB Staff
Letter 48

COMMENTER:  Dr. James McFadden

DATE:  December 1, 2014

RESPONSE:

Response 48.1

The commenter states an opinion that the loss of the view from Campanile Way would be detrimental to Berkeley culture and quality of life. Please see Topical Response B, Westward Views from Campanile Way, for a response to this comment.

Response 48.2

The commenter opposes the loss of the Habitot Children’s Museum and Shattuck Cinemas. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers.

Response 48.3

The commenter states an opinion that the proposed project would increase rents in the Downtown area, drive away small businesses, destroy Berkeley’s small town feel and charm, and replace moderate paying jobs with minimum wage jobs. The commenter also opines that construction of the proposed project would result in noise and congestion impacts that result in a loss of business. The construction-related noise impacts of the proposed project are analyzed under Item XII, Noise, of the Infill Environmental Checklist in Appendix A of the Draft EIR and construction-related traffic impacts are analyzed in Section 4.2, Transportation/Traffic, of the Draft EIR. As discussed there, impacts would be less than significant. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.
From: Martha Nicoloff [mailto:nicoloffmartha@yahoo.com]
Sent: Monday, December 01, 2014 4:59 PM
To: Sage, Aaron E.
Subject: Re: Draft EIR for 2211 Harold Way -------Dec 1, 2014, from M Mitchell 549-1840

To HYPERLINK "mailto:asage@city" asage@city of berkeley info

Why would we want a huge very ugly building towering over our beautifully restored and earthquake retrofitted historic landmark, in the heart of Downtown?
How can the City of Berkeley allow a developer to destroy parts of the Shattuck Hotel, and our beautiful Landmark Cinema, ruin the thriving Hotel with dust and construction noise and machinery, blocked parking, and congested access for years?
Neighbors have been commenting on “Next Door” email networks since the projects picture appeared in the news a week ago—like they are shocked “What is going on?” They have no clue.

I’ve heard that City Planners are scrambling for where to put the 3 biggest buildings in Mayor Bates Plan. Sounds like strategic planning for Plan Bay Area—the new regional government for the 9 counties around San Francisco Bay that was created by ABAG and MTC and approved July 18, 2013. Again almost nobody knows about that although Mayor Tom Bates was a top official for this Plan. He had the responsibility for all cities in Alameda Count but we never had a meeting in Berkeley about this. And again, almost nobody knows about this Plan.

PLAN BAY AREA?

Is this huge building –2211 Harold Way-, part of implementing Plan Bay Area? Can you please explain as much about this as possible? And also how can Mayor Bates and others involved in this Plan Bay Area bypass reasonable public process.
I’m attaching a copy of comments from officials and experts on Plan Bay Area for the record. Only Mayor Bates seems to think the Plan Bay Area is good. Mayor Bates associate David Early made the Blueprint for Plan Bay Area in about 1994. Mr. Early started the organization Livable Berkeley a group to that defines livable as like Manhattan, NY. Mr. Early was a member of Richard Register’s group Urban Ecology. Register wrote EcoCity Berkeley in 1986, endorsed by Loni Hancock, who married Tom Bates and both are like father and mother to Berkeley Citizen Action (BCA)group, the group that has hed the City Council majority since 1982 and considered a powerful political machine. The Cities’ Wealth, programs for community economic control in Berkeley California published 1974.

Page 1 of The Cities’ Wealth focuses on “the techniques of economic and political policy which lead toward controlling and reallocating a city’s wealth”—so what? The point is that our political machine has controlled the city for over 30 years and too few now wield the power. Now, as I have been saying above, almost nobody knows about what’s going on much of the time re important things that we the people have a right to know. When you read the next paragraphs re our last two major elections involving Mayor Bates Downtown Plan, you can see something very wrong happening in the elections and the residents of Berkeley being cheated out of a fair and meaningful process. We need to start over on this Downtown Planning and let the people know what are the real possibilities.

THERE WAS NO CAMPAIGN AGAINST MAYOR BATES Measure R in 2010

Mayor Bates Plan for Downtown—Measure R on the 2010 November Election, was not a fair and honest election, as Jesse Areguine took the responsibility for running the campaign against Mayor Bates Downtown Plan, but he quietly dropped the ball without telling the people who could take over the campaign. Friends of mine had made an excellent flier that could have and should have been distributed to the entire city. When I discovered that Jesse was not running the campaign, his staff said there would be something later. This was merely a trick crafted by Dave Blake, a former printer, who designed the “No on R” sign to look instead like “No on P”. This conartistry wasted all of several thousand dollars given to Jesse from Baha for the campaign.

THE 2014 CAMPAIGN for the DOWNTOWN OVERLAY WAS SABOTAGED TOO

Kriss Worthington, Jesse Areguine and the rent Board shared a campaign office for both the 2010 and the 2014 elections. For the 2014 November Election, Kriss Worthington started early with his initiative and signature campaign friend “B’s wasting precious time adding more and more to the ballot text which made it too easy to attack and to confuse the voters in the election. After all, Kriss went neutral on the issue.

Conflicts of Interest?

I understand that Building Permit Fees are used to pay the salaries of the building planners. If so, how much money will be generated to pay planners from permits on the 2211 Harold Way project in the Shattuck Hotel site? Doesn’t this type of funding seem like a conflict of interest?
Other Conflicts of Interest:

When Marc Rhoades first applied to work in the City of Berkeley he had a conflict of interest with a cell phone company he worked for that wanted to work in Berkeley. But he was hired none-the-less and worked on cell phone issues. He later became Zoning Officer and Planner and made changes on the Zoning and Planning documents. When he left his City of Berkeley job and he and wife ran Livable Berkeley and then became developer in Berkeley. He now has huge projects going on simultaneously all around town. Doesn’t this seem like multiple conflicts of interest for Marc Rhoades and the City of Berkeley?
Letter 49

COMMENTER: Martha Nicoloff

DATE: December 1, 2014

RESPONSE:

Response 49.1

The commenter asks why “we” would want a “huge very ugly building” in the Downtown area. The commenter also expresses concern that the proposed project would “destroy” parts of the Shattuck Hotel and Shattuck Cinemas, and cause traffic issues in the area for years. The commenter states concerns regarding construction impacts, parking and traffic, but does not provide information or analysis regarding the Draft EIR. These topics are discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR), and in Sections 4.1, Cultural Resources, and 4.2, Traffic/Transportation, of the Draft EIR. Impacts related to demolition of historic structures would be significant and unavoidable. Traffic impacts would be less than significant or significant but mitigable. Construction noise and air quality impacts would be less than significant. Nevertheless, these concerns are noted and will be forwarded to the City’s decision makers for their consideration.

Response 49.2

The commenter states various opinions about Berkeley’s mayor and regional planning for the Bay Area. These comments do not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but are noted and will be forwarded to the City’s decision makers for their consideration.

Response 49.3

The commenter asks if the proposed project is part of implementing Plan Bay Area. The proposed project is eligible for a streamlined EIR process under Section 15183.3 of the CEQA Guidelines because, among other factors, it is consistent with the policies of a “sustainable communities strategy” (SCS) adopted for the project area pursuant to Government Code Section 65080. In the case of Downtown Berkeley, the applicable SCS is found in Plan Bay Area, which was adopted by the Association of Bay Area Governments and the Metropolitan Transportation Commission in July 2013. The commenter goes on to express concern with Plan Bay Area and states an opinion that Plan Bay Area lacked meaningful public process. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 49.4

The commenter makes similar additional comments about subjects not related directly to the EIR but about local politics and regional planning. These comments do not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but they are noted and will be forwarded to the City’s decision makers for their consideration.
Response 49.5

The commenter expresses concern that the use of building permit fees to pay the salaries of city planners is a conflict of interest. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 49.6

The commenter opines that a conflict of interest exists because the project applicant, Mark Rhoades, worked for the City of Berkeley and now works on behalf of the proposed project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
I urge you to continue the public input period regarding the 18 story high rise slated to replace the current Shattuck Landmark Theater building. This proposal is not what Berkeley needs as far as housing & removes several key family-oriented businesses.

Jai Jai Noire
Channing Way
Berkeley, CA 94703
Letter 50

COMMENTER: Jai Jai Noire

DATE: November 17, 2014

RESPONSE:

Response 50.1

The commenter requests that the comment period be extended. See Response 16.1 for a response to this comment. The commenter also opines that the proposed project is not what the City needs for housing and that it would result in the loss of “key family-oriented businesses.” These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.
Aaron Sage, Senior Planner  
Land Use Planning Division  
2120 Milvia Street, 2d floor  
Berkeley, CA 94704  
asage@cityofberkeley.info

November 30, 2014

RE: 2211 Harold Way, Comments on DEIR

Dear Members of the Berkeley City Council and Zoning Adjustment Board:

I write as a resident of Berkeley for almost 30 years and former, career-long planner for the City of Oakland. At UC Berkeley, I’m a lecturer in City Planning and serve on the design review panel for capital projects; the comments are mine (the panel has not considered this matter).

I disagree that "partial" blocking of the view from Campanile Way is not a significant impact.

The base of the Campanile is the very heart of the Berkeley campus, the place where most people go to experience the bridge and bay view, rather than ascending the tower. The base is a magnetic spot where tourists take photos of each other, where locals culminate a walk, and alumni congregate—all to appreciate the amazing siting, and take in the inspirational vista that leads beyond the Golden Gate to the ocean’s horizon.

There’s no other place like it, and there’s no other place in town or on campus where this deliberately framed view can be seen. Views can be had elsewhere, of course, but the design quality of the arrangement is unique; the Campanile was placed on axis with the Golden Gate, and the procession along Campanile Way with its sequential views is still a vital and beautiful pedestrian connector with downtown.

According to the DEIR (Sec 4-1.34), as seen from Campanile Way, the building "would obscure approximately three-quarters of the visible portion of Alcatraz Island, and almost half of the visible portion of the deck of the Golden Gate Bridge..." That degree of obstruction is clearly significant and irreversible. The entirety of the view at the end of the historic axis comprises it's visual drama, spectacular natural setting, and historic integrity. The Final EIR should present a credible project alternative that would reduce the impact on the view to less than significant—namely, by altering the building massing.

This historic view belongs to the public, not just the university or members of campus. All Berkeley residents are entitled to protection of this shared, publicly accessible and irreplaceable asset, that also attracts national and international visitors. I’m afraid it would be a sore-thumb embarrassment for the City of Berkeley to knowingly obstruct a world-class view of citywide importance. Hopefully, an alternative massing study will lead to an improved project.
Visual simulation (Fig 4.1-5). The photoshopped image does not adequately demonstrate the degrading impact of an 18-story building on the vista from Campanile Way. In a 4x6, the distant building's impact is miniaturized compared to confronting it in real life. The first reaction of someone standing on Campanile Way looking toward a blocked view of the Golden Gate Bridge and Bay will simply be, "Who let that happen?" Shouldn't the reaction remain, "What an amazing view! What an amazing city Berkeley is!" —just as it's been historically?

In the image the proposed project is largely hidden by foliage behind Wheeler Hall, especially from Viewpoint #4. But the Pittosporum trees that provide most of the screening are close to the end of their useful life, and may well be removed within the next ten years, like many other of that species planted in the same era that are being designated for removal on campus. The proposed building will become more obvious in the view corridor, and more detrimental.

Impact CR-3. "The westerly views from Campanile Way...are not historical resources in their own right." It strikes me that the view is not designated historic because there is no obvious mechanism for that kind of designation. Whether or not the view is de jure "historic," it is de facto a significant historic resource for both the campus and the City. This is the centerpiece view since layout of the campus (1873), construction of the campanile (1913-15), and throughout the evolution of the campus plan, beginning with John Galen Howard (1914).

In fact, the UC Berkeley Landscape Heritage Plan states that portions of the campus landscape meet Criteria A, B and C for listing on the National Register of Historic Places.* It appears that Campanile Way and its character-defining view could be determined eligible for listing on the National Register, and that would be equivalent to historic designation for CEQA purposes.

In closing, I urge the City to require massing studies for a project modification that would not impact the views from Campanile Way, not only for inclusion in the Final EIR but for serious consideration as an alternative to the current proposal. Development in downtown is welcome, and I appreciate the City's commitment to infill urbanism, but as currently proposed the massing of 2211 Harold Way degrades a significant and irreplaceable resource.

Thank you very much for the opportunity to comment.

Sincerely,

Helaine Kaplan Prentice, ASLA

* attached
http://www.cp.berkeley.edu/lhp/significance/significance.html
To determine a site's national historical significance, the National Park Service sets standards for the documentation of a site's history and its historical context. These standards are set forth in the National Register for Historic Places (NRHP) program. Apart from its architectural and academic legacy, portions of the UC Berkeley campus landscape may be culturally significant, as determined using the NRHP criteria.

Ansel Adams, Sather Tower trees from Plaza, 1964, Flat Lux Collection, California Museum of Photography, University of California, Riverside.

**Criterion A:** Associations with an event, or series of events, that have made a significant contribution to the broad patterns of American history.

UC Berkeley demonstrates national significance as the first federal land grant public university in the state of California; the first Agricultural Experiment Station in the state of California; and for its early collection and study of exotic botanical plant specimens.

**Criterion B:** Associations with the lives of people significant in our past.

UC Berkeley has a distinguished list of master landscape architects and architects whose collective work has defined the campus: Frederick Law Olmsted, Sr.; William Hammond Hall; John Galen Howard; John W. Gregg; Lawrence Halprin; Garrett Eckbo; Robert N. Royston, and Thomas D. Church.

**Criterion C:** Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master; or possesses high artistic values.

The Classical Core at UC Berkeley retains a layered collage of three significant internationally recognized landscape design movements: the picturesque era; the beaux-arts neoclassical era; and the modern era.
Letter 51

COMMENTER: Helaine Kaplan Prentice, ASLA

DATE: November 30, 2014

RESPONSE:

Response 51.1

The commenter states disagreement with the Draft EIR conclusion that the partial blocking of views from Campanile Way is not a significant impact. The commenter states an opinion that the Final EIR should present a project alternative that would reduce impacts to this view by reducing the buildings massing. Please see Topical Response B, Westward Views from Campanile Way, for a response to this comment.

Response 51.2

The commenter opines that the visual simulation in Figure 4.1-5 does not adequately demonstrate the impact of the proposed project on the view from Campanile Way. The visual simulations in the Draft EIR were prepared by Environmental Vision to accurately reflect the proposed project’s potential impact to views. The commenter states an opinion that the proposed project is hidden in the figure by foliage of trees that will not block the view at some future date. Please see Topical Response B, Westward Views from Campanile Way, for a response to this comment.

Response 51.3

The commenter states an opinion that the view from Campanile Way is not a designated historic resource because there is no mechanism for such a designation. The commenter further opines that because the UC Berkeley Landscape Heritage Plans assert that portions of the campus landscape meet Criteria A, B, and C for listing on the National Register of Historic Places, the view from Campanile Way could be determined eligible for listing on the National Register. Please see Topical Response B, Westward Views from Campanile Way, for a response to this comment.

Response 51.4

The commenter requests that the City require massing studies for a project alternative that would not impact the views from Campanile Way. Please see Topical Response B, Westward Views from Campanile Way, for a response to this comment.
December 1, 2014

TO: Aaron Sage, Senior Planner
City of Berkeley, Planning and Development Department
2120 Milvia Street
Berkeley, CA 94704

And via email: asage@ci.berkeley.ca.us

RE: The Residences at Berkeley Plaza Draft Environmental Impact Report Applicant
   Comments

Dear Mr. Sage,

This letter represents the applicant and project team comments on the Draft Environmental Impact
Report (DEIR) prepared for the Residences at Berkeley Plaza project at 2211 Harold Way, pursuant to
CEQA’s streamlining requirements for infill development projects.

Overall, we believe the document was well prepared and presents a fairly thorough analysis of the
potential environmental impacts of the project. This memo includes an overview of our comments and
general questions with regards to the document as a whole. The attached document contains some
more specific redline comments prepared by Kristina Lawson, the project team attorney.

1. Document organization and references to Infill Checklist, Downtown Area Plan (DAP) EIR
   a. The document’s readability could be improved with an expanded introduction that more
      clearly connects the Downtown Area Plan (DAP) EIR’s previous environmental review with
      the additional environmental review. Specifically, the introduction should reference that
      the limited scope Draft EIR includes the Infill Checklist, and that the DEIR must only analyze
      new significant impacts that (1) were not addressed in the Downtown Area Plan (DAP) EIR,
      and (2) that uniformly applicable policies or standards do not substantially mitigate. See
      notes in attached redline version for reference locations.
   b. The Introduction should also include as the first step in Section 1.5, Environmental Review
      Process, a discussion of the requirements for an infill EIR, including preparation of the
      Appendix N checklist documenting the substantial evidence that supports the
      determinations regarding project impacts. See notes in attached redline version for
      reference locations.
   c. The full extent of the document’s analysis would be more easily apparent if the infill
      checklist appeared in the document before the impact analysis.
   d. The checklist and executive summary should expressly state whether the infill project
      incorporates all applicable mitigation measures from the DAP EIR. See notes in attached
      redline version for reference locations.
   e. To improve readability, reference to Appendix F should be included in the EIR and in the
      Table of Contents. While CEQA does not specify any criteria for wind impacts, decision
      makers may use the EIR to understand potential impacts relating to wind shear. The EIR
      should note that analysis of wind impacts appears in Appendix F. In addition, the Table of
      Contents should name Appendix F so users can find the wind analysis.
2. Project Description policy discussion to set context for impact analysis, alternatives

a. The Project Description, Section 2.0, should include further context in the discussion of General Plan statements on population density to clarify that General Plan policies citing Downtown FAR and building heights are no longer applicable, and that the standard relied upon the DAP goals and policies and the building intensities they imply. The discussion should include that Berkeley is a charter city and not a consistency jurisdiction.

For example, Page 2-13: City of Berkeley General Plan. The DEIR implies that the following statement is a matter of General Plan policy: “The General Plan also states that ...population density will generally range from 88 to 220 persons per net acre”. In fact this statement is part of the General Plan’s general overview of “land use classifications.” To provide accurate context to users of the EIR, the Final EIR should add the following context statement to explain the General Plan excerpt that was (incorrectly) used in the DEIR: “The range of intensities and densities that appear in the General Plan are not General Plan policies, and were left intact with the adoption of the DAP in 2012. General Plan policy amendments took place in 2012 as part of Resolution 64,581 including amendments to Policy LU-16, which gives full authority to the DAP goals and policies – and the densities and FARs they imply. General Plan policies citing Downtown FAR and building heights were struck with DAP adoption.”

b. The Project Description should also include further discussion of DAP policies that set context for evaluation of the project and the EIR alternatives.

For example, Page 2-13: DAP policies that set critical context for environmental evaluation of the Project – and the EIR Alternatives – should appear in the EIR. DAP policies with direct relevance to the Project’s street frontage – and fair evaluation of the Project and Alternatives – are noted here. As presented, the EIR “Preservation Alternative” is inconsistent with these policies, the following DAP policies must – as a matter of law – be disclosed as part of the evaluation of EIR Alternatives.

“Policy LU-1.1: Downtown Uses. c) Along sidewalks where it is desirable to have high levels of foot traffic and visual/physical connections between public and interior space, not all allowable uses are appropriate at street-level. Where designated by “Figure LU-3, Public-Serving Frontage Required,” appropriate street-facing street-level uses are defined [as:] active commercial uses (such as retail, restaurants, ...); ...and similarly intensive pedestrian/visitor/customer-based activities.)”

“HD-4.1: Pedestrian-Oriented Design. b) [P]romote active, interesting and pleasing pedestrian environments. Specifically, modify the zoning code to better address issues of continuity... such as with: frequent building entrances, street-level transparency/windows, on-site open space, etc. ...”

c. Similarly, certain excerpts of the Berkeley Municipal Code should appear in the EIR to set critical context for evaluation of the Project and EIR Alternatives. For example, pages 2-13 to
2-15, decision makers should be informed that the ‘Preservation Alternative’ is inconsistent with the following provision: “23E.68.060 Use Limitations. E. When located on the ground floor adjacent to a street frontage, storefront windows are required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.”

d. Additionally, Downtown Design Guidelines portions of the Berkeley Municipal Code should appear in the EIR to set critical context for evaluation of the Project and EIR Alternatives. Decision makers should be informed that the “Preservation Alternative” is inconsistent with the following provisions.

Facades (page 29): “7. Maintain the typical rhythm of structural bays and enframed storefronts....”

Storefronts & Entrances (page 35): “1. Maintain storefronts with generous windows along streets where commercial and higher levels of pedestrian activity can be expected (see Figures [below]). Fit storefronts within enframed openings. 8. At least 75% of storefronts should be transparent. 9. Retail spaces should be accessed directly from the sidewalk, rather than through lobbies or internal spaces.”

Frontages, Setbacks & Heights (page 62): “[A]long Public Serving Frontages, the following are required (see Figure ... “Public Serving Frontage Required” [shown above]): 1. At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a street-facing property line. No two entrances shall be separated by more than 50 feet. 2. Clear glass shall comprise at least 60% of the street-facing façade where it is between 3 feet and 8 feet above elevation of adjacent sidewalk. 3. The design of the ground floor space shall be visually open to pedestrians such that the design should enable the main activities of the proposed use to be carried out towards the front of the space.” [See also Design Guidelines Figure 44, right.]
Open Spaces (p. 65): “2. Provide pedestrian amenities that are available to the public, such as plazas, …— while also maintaining Downtown’s general pattern of ‘streetwalls’” [emphasis added]. …5. …Provide new open space which are deliberately planned, designed, and located to be usable…. 6. … Locate new open space to take advantage of natural sunlight where possible.”

Special Sites, Buildings & Subareas (p. 71): “Corner Sites. 1. Accentuate the corner as the focal point of the site. This may be accomplished by building to the maximum height, utilizing setbacks, …or providing open space....”

3. DEIR doesn’t include analysis of potential impact on a possible historic district
   a. The 2007 Downtown Area Plan Survey identified a cluster of historic resources along Shattuck and some affiliated side streets that had the potential to be an historic district. The Final EIR should include analysis of the potential impact of the project on this potential historic district. We note the presence of language in the design guidelines that addresses this issue and may be useful to include in the Final EIR. The Commercial Corridor District is discussed in the ARG technical appendices but only briefly.
   b. In discussion about compatibility with adjacent historic resources and that the height alone would not result in a significant impact, on p. 4.1-30, the EIR must reference DAP Policy HD-3.2, which recognizes continued variety in building height, massing, and scale as part of Downtown’s context.

4. Historic significance and integrity of 1926 addition
   a. The Draft EIR presents an inadequate discussion of C-DMU findings related to compatibility with visual character and form of the Downtown, and that no designated landmark will be adversely affected by the appearance of a proposed addition. DAP policy language related to this finding is included on page 4.1-16, but should be strengthened. Also see bullet above regarding Policy HD-3.2.
   b. Page 4.1-20: Period of Significance under Criterion C – the architecture does not include the 1926 addition...Hink’s is included Under Criterion A – Part of the reason why it could be stated that the removal of the 1926 Hink’s addition will not have an impact is that he Hink’s addition does not contribute to the Shattuck Hotel element of the Landmark.
   c. Page 4.1-20: Discussion of integrity should state that Hink’s has very little integrity to convey the purpose for which it was built. The building retains Integrity generally to the exterior, but NOT the interior. It is not currently used as retail. A large portion is theater or restaurant. There are no special features about the exterior of the 1926 building that points to its use as a department store other than perhaps the awnings at the entry doors. The exterior was compromised by the basement entry.

5. Campanile Way Analysis and Visual Simulations
   a. Page 4.1-33: It is important that EIR language is very careful to be completely accurate in describing the level of impact on views – for example it would be accurate to state that ‘the project partially obscures limited portions of less than one-quarter of the bay view portion of the overall view shed when seen from select locations...’ rather than the current phrasing, ‘the project would not entirely block existing views of the Golden Gate,’ which is misleading and may cause confusion.
b. The EIR should note that views that are obscured are from intermittent or occasional locations, and that photo simulation locations were selected to reveal a maximum level of potential impact. So decision makers can accurately evaluate how views would be affected, a plan diagram should show where the Project would be seen – and where it would not be seen. Figure 4.1-3 describes photo locations but does not describe the extent to which affected views would be experienced by pedestrians. Evidence on the ground suggests that the Project would not be visible from vast majority of locations at the base of the Campanile and along Campanile Way. The project can only be seen from a limited set of locations, a small fraction of the Campanile Way experience, and the Final EIR should note this more clearly. The simulations in the Draft EIR are taken from locations where view of the project would be greatest.

c. Some members of the public have asserted that the project would create a more significant view were it not for mature trees in the view shed. The EIR should note that the loss of trees without replacement is conjecture, especially given the renderings and policies of the UC’s treatment of the Campanile in the New Century Plan. CEQA requires that existing conditions be the basis of analysis.

d. The photo simulations included in the EIR should show the latest draft of the building design, which removed trees and trellis structures from the northern portion of the 12th floor roof deck, and which reduce view impacts.

e. The EIR should note that the DAP EIR modeled a 225’ building on this site. This is discussed in the checklist but should be in EIR itself as well. The discussion in the EIR should include the general assumptions modeled in the DAP EIR, which included a 225-foot tall building positioned on the alley and annex, with a 15-foot setback at 85 feet. The 120-foot diagonal required by the Downtown Area Plan did apply, and we believe upper floors were approximately 60 feet east-west by 100 or more feet north-south.

f. The discussion of the view as discussed in the DAP EIR that is included on page 69 of the infill checklist should either be referenced or included in the project EIR’s discussion of this view to make the document more understandable to decision makers and the public.

6. Transportation/Traffic

a. To provide decision makers with complete information, the introduction to this section should acknowledge that CEQA legislation (SB743) was enacted recently, and will prohibit use of Levels of Service (LOS) analysis to evaluate transportation impacts as of January 1, 2017. This section should note that SB743 views Level of Service (LOS) analysis as detrimental to transit-oriented infill development, and that SB743 recognizes that transit-oriented infill development reduces automobile use, avoids greenhouse gas emissions, and promotes multimodal transportation systems. (SB743 can be viewed at: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=), and an overview from the Governor’s Office of Planning and Research can be viewed at: [http://opr.ca.gov/docs/SB_743_CEQA_Guidelines_Update_Local_Government_Roundtable_8_18_14.pdf](http://opr.ca.gov/docs/SB_743_CEQA_Guidelines_Update_Local_Government_Roundtable_8_18_14.pdf).)

7. Discussion of Draft EIR Proposed Project Alternatives

The Project Objectives for the purposes of the CEQA documentation are found on page 2-57 of the Draft EIR. (2.5 PROJECT OBJECTIVES). Overall, both the Preservation Alternative and the Contextual Alternative identified in the Draft EIR are inconsistent with the project’s objectives and with many of the goals and policies of the DAP and SOSIPs. Both alternatives proposed building massing that is more
costly to construct, less consistent with DAP policies, jeopardizes the movie theaters, and reduces residential yield.

Both alternatives propose retention of the former Hink’s Department Store addition’s façade at substantial additional expense and environmental consequence to the Downtown while requiring that the same “historic” façade be substantially altered so that it complies with the DAP Design Guidelines for an appropriate pedestrian environment (something that the structure was never intended to provide). We believe the level of façade alteration necessary for the Hink’s addition to be made consistent with DAP Design and SOSIPs Guidelines may render the project inconsistent with the Secretary of the Interior’s Standards for resource preservation.

Both of the Draft EIR project alternatives are less consistent with the DAP, DAP Design Guidelines, and SOSIPs Guidelines because of their proposed tower configurations. Both alternatives require substantial additional project discretion to be allowed upper story configurations that are inconsistent with the clear guidance of the DAP and implementing zoning. Preservation Alternative places significant additional building massing adjacent to the Shattuck Hotel. The proposed project allows a well-modulated hyphen between the historic Shattuck Hotel and the new building portion, with more gradual massing increasing away from Shattuck Hotel.

Both of the proposed CEQA alternatives have less yield, but substantially so with Preservation Alternative. The increases in commercial floor area, under both alternatives, is not substantial enough, nor is the floor area leasing rate high enough, to offset the residential floor area/dwelling unit reductions. The Preservation Alternative is financially infeasible to construct. The best case scenario with this alternative is a 20% reduction of dwelling units, while the worst case represents a nearly 35% reduction in the number of dwelling units.

Likewise, the Contextual Alternative has a best case reduction of only five dwelling units but a worst case reduction of 24% of the proposed dwelling unit yield. The Contextual Alternative proposes a cinema floor area reduction of approximately 8,000 square feet (nearly 40%), making the theater retention infeasible. The Contextual Alternative represents a significant negative impact on the Downtown’s cultural arts industry.

The significantly reduced revenue stream of both the CEQA alternatives, plus substantially increased construction costs is less resources to the City of Berkeley and fewer options for community benefits. In particular, the both alternatives eliminate the potential for the project to proceed with the union labor agreement intact, they reduce project subsidy for new cinema construction, and they will necessitate a reduction in the project’s TDM strategies.

As stated, the objectives for the proposed 2211 Harold Way Mixed-Use Project are to:
1. 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.

2. Generate much-needed high-quality, transit-oriented, and sustainable market rate housing to support and contribute substantial affordable housing (and/or in-lieu fees) as required by Section 22.20.065 of the Berkeley Municipal Code.

3. 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.

4. 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.

5. Secure Downtown as a major cinema destination by replacing aging deficient theater boxes with state-of-the-art cinemas.

6. 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.

7. 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.

8. Provide a superior green building using environmentally sustainable siting, development, and construction practices.

9. Use ecologically beneficial landscaping that promotes watershed health and creates safe, comfortable, and inviting open spaces.

10. 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.

11. Encourage alternative modes of transportation for residents, employees, and retail customers.

12. 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.

13. 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.

Each of the proposed CEQA project alternatives is discussed in more detail, below.

a. Preservation Alternative

   - The alternative is inconsistent with numerous project objectives and may represent an infeasible project due to construction and constructability issues (façade retention, etc...). The alternative significantly reduces the number of dwelling units such that it is infeasible to construct.
The alternative is inconsistent with a number of City policies and regulations for active street frontages (as well as building to streetwall, which is included in impact analysis as a guideline that the proposed plaza does not meet)

- Additionally, should be noted here and in the Project Description (p. 2-16)/Impact Analysis (p.4.1-31) – the proposed plaza clearly meets the stated exceptions in the Downtown Design Guideline related to maintaining a continuous zero-setback build-to line (from the DAP: “The only exceptions to this may be to: provide suitably defined, usable open space; create a special corner feature; provide recessed storefront entrances; create an arcade; to provide a narrow band of landscaping; or to give emphasis to a civic building”). Additionally, in the discussion of compatibility, it should be mentioned that many nearby historic buildings have plazas – so the proposed plaza should not be considered an adverse impact, and makes Mitigation CR-2(d) unnecessary. This adjustment would alter the design of a Contextual Alternative. Page 76 of the Infill Checklist does note that the project generally meets the intent of the allowed exception. This discussion should be included on page 4.1-31.

- In addition to Design Guideline inconsistencies, the Preservation Alternative requires two new Use Permits to modify the primary zoning guidelines for the tall buildings – permitting zero setback above 75’ and increasing width greater than 120’. The project as proposed does not need these Use Permits. These are two of the primary design and zoning guidelines for the tall buildings allowed under the DAP. The Alternatives section should discuss this as a significant policy tradeoff so that decision makers are fully informed of the ramifications of shifting massing to the south shoulder.

- It would be useful to decision makers for the EIR to specify DAP policies and regulations with which the Alternative is inconsistent.

- The Preservation Alternative analysis should further explore tradeoffs between preservation of the existing façade to Secretary of Interior Standards, and the DAP Design Guidelines. That is, if the existing facades were adjusted sufficient to satisfy DAP requirements as outlined above, would it still be in conformance with Secretary of Interior guidelines? And if existing facades were adjusted to conform with Secretary of Interior guidelines, could it conform with DAP?

- The Alternatives section should discuss all potential impacts from shifting massing to the south shoulder, as is depicted in the Preservation Alternatives. Under the Preservation Alternative, additional massing and building height is located along Kittredge and closer to the historic Shattuck Hotel and Central Branch Library. Potential impacts from the closer proximity of the project’s building mass to Landmark buildings should be evaluated and disclosed. In addition, potential north/south view issues should be discussed, as appropriate, with respect to the changed massing.
b. Contextual Alternative

- This Alternative re-creates an interior plaza that is similar to one proposed by the original project submittal, which is inconsistent with community feedback that directly resulted in proposal for corner plaza. The original project proposal included a large interior open space. However community feedback focused on the importance of bringing that plaza to the street to receive more direct sunlight, to enliven the area proximate to the library, to attract passers-by, and to ensure the public open space was not isolated or creating an attractive nuisance. This Alternative returns to a design concept that received harsh criticism from many community stakeholders, the DRC and the ZAB.

- This alternative is not feasible because it eliminates the hotel service and access area, which is currently in the alley off of Allston Way, and which must remain as such.

- The requirement for perforations in the ‘hyphen’ wall would eliminate the use of that space for cinema theater boxes, another element of the proposed design that is the direct result of community input. Page 4.1-30-4.1-31 mentions the Design Guideline that states that “when this [perforation of walls adjacent to historic buildings] is not feasible, consider the use of ornament, murals, or landscaping along large blank walls.” Therefore, because it is not feasible to perforate this wall due to the cinema location, landscape as proposed is an appropriate treatment. This design element should not be considered as part of a significant adverse impact, and makes Mitigation Measure CR-2(b) unnecessary, as well as this design element in the Contextual Alternative. This will ultimately be decided by the ZAB and the LPC.

- Like the Preservation Alternative, this alternative requires a Use Permit for increased width above 120 feet. Page 5-21 states incorrectly that the currently proposed project requires this Use Permit. The currently proposed project conforms to all of the development standards for a building of exceptional height. This Use Permit reflects one of the most important Design Guidelines applicable to tall buildings in the Downtown Area Plan, which results in point towers similar to upper portions of the existing Chamber of Commerce building, rather than wider towers more similar to the existing Great Western building. The Contextual Alternative should include a discussion of this policy tradeoff implicit in moving massing to the southern shoulder. This Alternative therefore can be seen to be risking the project objectives, as the project objectives would only be met with the assumption of achieving this discretionary permit.

- As is the case with the Preservation Alternative, this alternative must include some analysis on the potential impacts of placing additional massing closer to the historic Shattuck Hotel. In addition, potential north/south view issues should be discussed, as appropriate, with respect to the changed massing.

c. Environmentally Superior Alternative

- The Environmentally Superior Alternative is the Preservation Alternative, which as previously described is not a feasible project alternative. In addition, this alternative makes the assumption that the retention of the Hink’s walls and resulting reduction of residential density, community programming, pedestrian and transit enrichment,
and revenue generation is environmentally superior. The proposed project, with its urban design, community benefits, and transit orientation represent an environmentally higher performing project than this alternative, especially when measured against the City of Berkeley Climate Action Plan and the Downtown Area Plan.

- The reason that the Draft EIR states the Environmentally Superior Alternative is the Preservation Alternative is because it retains the exterior walls of the former Hink’s Department Store, a work of Walter Ratcliffe, Jr. The structure was never intended to relate to the street or to have a relationship the greater Downtown Area. The walls of the former Hink’s Department Store do not represent Walter Ratcliffe Jr.’s better works. There are numerous and far more important examples of his architecture already preserved, such as the former Armstrong College right across the street. The Hink’s “box” was built for a purpose and that purpose no longer exists. The proposed project represents a better and environmentally higher performing use of the land and when considered against the goals of the City of Berkeley Climate Action Plan.

- The Environmentally Superior alternative may present construction limitations that render the alternative financially infeasible, which is inconsistent with the project’s objectives.

- As noted above, it should be clear that the Environmentally Superior Alternative is inconsistent with a number of DAP policies (described above) and requires a higher level of discretionary permits than required by the proposed project, and is inconsistent with the design direction provided by the DAP. Similar notes described above should be included in this discussion, such as potential tradeoffs between Design Guideline conformance and conformance with the Secretary of the Interior Standard’s, and policy tradeoffs associated with moving massing to require discretionary permits to allow increased width of the tower portion of the building.

- The Environmentally Superior alternative addresses the less than significant Campanile view issue by reducing the height of the north wing, in which case the massing would be relocated to create a tower profile that: exceeds building envelope controls anticipated by the DAP. This direction directly conflicts with the goal of the DAP with respect to taller buildings. It seems arguable that a reasonable alternative would advocate for violating a significant DAP policy objective by increasing the width of the tower in exchange for further reducing an already less-than-significant impact. This policy tradeoff should be discussed more fully.

  Furthermore, the Environmentally Superior alternative places sizable additional building mass and building height in close proximity to the Hotel Shattuck and Central Branch Library, and without fully evaluating potential significant impacts to these historic resources.

8. Other General Comments

a. The Draft EIR still refers to ‘demolition’ of the 1926 addition in a number of places – this needs to be changed globally to alteration or modification, or removal of the addition. (see pages ES-4, 4.1-26, 4.1-27 (3 locations), 4.1-40, 5-1, 5-20, 5-22, Infill Checklist p. 33, 93, 113)
b. Infill Checklist p. 61 should note, to improve readability, that the project is not located in either of the two sensitive areas of the DAP described in the Downtown Area Plan summary on pages 59-60.

c. Page 86 of the Infill Checklist should note that BAAQMD initiated an update to the CAP on April 14, 2014.

d. The Land Use section of the Infill Checklist should clarify that the potentially significant impacts that are being studied in the Infill EIR are studied as potentially significant cultural resources impacts, not land use impacts.

Thank you for the opportunity to provide comment consistent with CEQA Guidelines on the Berkeley Plaza Draft Environmental Impact Report. We appreciate the opportunity to provide this important information and to finishing a robust CEQA document that will fully inform the decision makers and the public about the potentially significant environmental impacts of the project. If you have any questions on the information contained in this letter please do not hesitate to contact me directly at 510.545.4341, or Katie Gladstein at 510.545.43441.

Sincerely,

Mark A. Rhoades, AICP
Principal, Rhoades Planning Group

C: Joseph Penner, HSR Berkeley Investments
   Kristina Lawson, Partner, Manatt/Phellps & Phillips, LLP
2211 Harold Way
Mixed-Use Project

Draft
Environmental Impact Report
SCH# 2014052063

Prepared by:

City of Berkeley Planning Department
Land Use Planning Division
2120 Milvia Street, 2nd Floor
Berkeley, California 94704
Contact: Mr. Aaron Sage, Senior Planner

Prepared with the assistance of:

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180 Grand Avenue, Suite 400
Oakland, California 94612

October 2014
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Appendices

Appendix A  Notice of Preparation, Responses to Notice of Preparation, Draft Infill Environmental Checklist
Appendix B  Historic Resources Technical Report
Appendix C  Traffic and Parking Study
EXECUTIVE SUMMARY

This section summarizes the characteristics of the proposed project and the significant environmental impacts, mitigation measures, and residual impacts associated with the proposed project.

PROJECT SYNOPSIS

Project Applicant

Joseph Penner
HSR Berkeley Investments, LLC

c/o Rhoades Planning Group
1611 Telegraph Avenue, Suite 200
Oakland, California 94612

Project Description

**Project Location.** The project site is a portion of an irregularly shaped but generally square 1.63-acre larger property forming one city block in Downtown Berkeley, bounded by and fronting Shattuck Avenue to the east, Kittredge Street to the south, Harold Way to the west, and Allston Way to the north. The assessor’s parcel numbers for the larger property are 057-2027-00600, -00700, -00800, and -00900. The project site itself – the primary area of proposed new development – is a 34,800 square-foot (0.8-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza building. The General Plan designation for the site is Downtown (DT); Downtown Area Plan, Core Area and the site is zoned Downtown Mixed Use District (C-DMU), Core Area.

**Existing Conditions.** The larger property is a fully urbanized city block that is generally level, sloping slightly downward towards the west and south. The project site – the area where existing buildings would be altered or demolished and new buildings constructed – is currently occupied by two structures. The first structure is a small office building with an area of US Post Office boxes on the corner of Alston Way and Harold way, which is also known as the Postal Annex building or 1959 Hink’s Building, and was constructed in the 1950s. The second structure, known as the Hink’s Addition/Shattuck Cinemas, was the 1926 Hink’s addition to the Shattuck Hotel building. This structure has frontage on Kittredge Street and Harold Way, and houses the Shattuck Cinema’s movie theaters, part of the Habitat Children’s Museum, and office space. Both buildings are two stories in height with a partial third story and a basement level (although the theater rooms occupy the equivalent of two stories of vertical space in what is essentially one level of useable space). The structural area affected by the project also extends to a portion of the basement level sitting below the street retail and Shattuck Hotel building.

Directly adjacent to the project site and on the same block is the Shattuck Hotel, a City of Berkeley Landmark, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue.
Project Description. The 2211 Harold Way Mixed Use Project is a proposed residential and commercial mixed-use development in Downtown Berkeley. 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 and 13th 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. The following table summarizes the basic project components.

<table>
<thead>
<tr>
<th>Use</th>
<th>Gross Floor Area (Square Feet)</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>278,185 (includes 57,893 square feet for residential circulation)*</td>
<td>302</td>
</tr>
<tr>
<td>Retail or Restaurant</td>
<td>10,535</td>
<td>n/a</td>
</tr>
<tr>
<td>Cinema</td>
<td>21,641</td>
<td>665 seats</td>
</tr>
<tr>
<td>Parking</td>
<td>79,109</td>
<td>171 auto 100 bike</td>
</tr>
</tbody>
</table>

**Max. Building Height:** 180 feet/18 stories

* Residential circulation (includes residential core, circulation, amenities, storage, and ancillary spaces at ground floor such as the lobby, leasing office, fire command and bike storage)

Requested Approvals. The proposed project is subject to approvals by both the City of Berkeley's Zoning Adjustments Board and the City's Landmarks Preservation Commission. Per the Berkeley Municipal Code, it is anticipated that the proposed project would require the following discretionary approvals:

- Use Permit for a Mixed Use Development in the C-DMU Zoning District
- Use Permit to allow the service of beer, wine and distilled spirits incidental to food service
- Administrative Use Permit to allow more than 2,000 square feet of Full Service Restaurant space
Executive Summary

- Administrative Use Permit to allow amplified live entertainment incidental to food service
- Use Permit to construct more than 10,000 square feet of floor area
- Use Permit to exceed a building height of 75 feet
- Administrative Use Permit to allow mechanical penthouse to exceed maximum building height
- Use Permit to demolish a non-residential building (1959 Hink’s Building)
- Structural Alteration Permit for the alteration of the Shattuck Hotel Landmark structure and site (1926 Hink’s Department Store addition and portions of 1913 addition to be removed), and for demolition of the 1959 Hink’s Building at Allston and Harold Ways.

Streamlined CEQA Processing for Infill Projects. The project qualifies for streamlined review under CEQA Guidelines Section 15183.3, due to its mixed-use nature and proximity to a major transit stop, among other site- and project-specific factors. The purpose of Guidelines section 15183.3 is to allow lead agencies to limit the topics subject to CEQA review at the project level “where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies.” The primary planning level decision is the adopted Downtown Area Plan, and the referenced environmental documentation is the 2009 Downtown Area Plan Final EIR and July 2010 Addendum.

Areas of controversy known to the City of Berkeley include aesthetics and historic resources. Interest groups and members of the public at large have expressed concerns regarding the scale and design of the proposed project and regarding the proposed project’s potential impacts related to aesthetics and to historic resources. In addition, nearby property owners have expressed concerns about potential construction-related impacts such as noise and loss of parking. Please see Section 1.0, Introduction, for a summary of comments received in response to the Notice of Preparation, and Appendix A to this EIR for the written comments received and transcripts of the public scoping meetings.

ALTERNATIVES

As required by Section 15126.6 of the CEQA Guidelines, this EIR examines a reasonable range of alternatives to the proposed project, and identifies the Environmentally Superior Alternative as also required by the CEQA Guidelines. As discussed in Section 1.0, Introduction, pursuant to CEQA Guidelines Section 15183.3, which states the requirements for Infill EIRs, this EIR does not address alternative locations, densities, or building intensities.

The following alternatives are evaluated in this EIR:

- Alternative 1: No Project (no change to existing conditions)
- Alternative 2: Preservation Alternative
- Alternative 3: Contextual Design Alternative
Of the development alternatives being considered, the Preservation Alternative would provide the most reductions in environmental impacts. It would involve retaining the historic structures onsite, 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.

SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Table ES-1 includes a brief description of the environmental issues relative to the Project, the identified significant environmental impacts, proposed mitigation measures, and residual impacts. Impacts are categorized by classes. Class I impacts are defined as significant, unavoidable adverse impacts which require a statement of overriding considerations to be issued pursuant to the State CEQA Guidelines §15093 if the Project is approved. Class II impacts are significant adverse impacts that can be feasibly mitigated to less than significant levels and which require findings to be made under Section 15091 of the State CEQA Guidelines. Class III impacts are considered less than significant impacts.

Potential impacts that were analyzed in the Infill Environmental Checklist and found to be less than significant are not included in this table. The Infill Environmental Checklist is included in this EIR as Appendix A. It should be noted that additional mitigation measures from the Downtown Area Plan EIR may also apply to the proposed project; these are not listed here but will be listed in the Mitigation Monitoring and Reporting Program prepared for consideration at the time the Final EIR is considered for certification.

Table ES-1 Summary of Environmental Impacts, Mitigation Measures and Residual Impacts

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<th>Impact</th>
<th>Mitigation Measures</th>
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<tr>
<td><strong>CULTURAL RESOURCES</strong></td>
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| 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. Impacts would be Class I, significant and unavoidable. | 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 | Significant and Unavoidable |
Table ES-1 Summary of Environmental Impacts, Mitigation Measures and Residual Impacts

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<td>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.</td>
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<td>• 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).</td>
<td></td>
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<td>CR-1(b) Salvage. The project applicant shall give local historical societies the opportunity to salvage materials from the 1913 and 1926 additions to the Shattuck Hotel 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.</td>
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Table ES-1 Summary of Environmental Impacts, Mitigation Measures and Residual Impacts

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<th>Mitigation Measures</th>
<th>Residual Impact</th>
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<td>in the entry arcade. 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.</td>
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<td>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.</td>
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<td>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.</td>
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<td>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. Impacts would be Class II, significant but mitigable.</td>
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<td>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.</td>
<td>Less than significant</td>
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### Table ES-1 Summary of Environmental Impacts, Mitigation Measures and Residual Impacts

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<td>CR-2(b) Kittredge Street Elevation.</td>
<td>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.</td>
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<td>CR-2(c) Glazed Aluminum Window Wall Systems.</td>
<td>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 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.</td>
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<td>CR-2(d) Recessed Entry Plaza.</td>
<td>The recessed entry plaza at the corner of Harold Way and Kittredge Street shall be replaced with an entry design that maintains the zero lot-line setback characteristic of the nearby historical resources and the larger Shattuck Avenue Commercial Corridor.</td>
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<td>Impact CR-3 The project would partially obscure views of the San Francisco Bay, Alcatraz Island, and the Golden Gate from the base of UC Berkeley’s Campanile and Campanile Way. The westerly views from Campanile Way are not historical resources in their own right; however, they are a character-defining feature of a landscape element (Campanile Way) that has been identified as a contributor to a cultural landscape (the Classical Core of the UC Berkeley campus). The project would not involve</td>
<td>None Required</td>
<td>Less than significant</td>
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<td>physical alteration of Campanile Way or its immediate surroundings. Further, the project would not entirely block existing views of the Golden Gate and would only block a minor portion of the existing view from the middle of the top stair immediately west of the Campanile, which is identified as a formal viewpoint in UC Berkeley's Landscape Heritage Plan. As such, view impacts related to historic resources would be Class III, less than significant.</td>
<td>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...</td>
<td>Less than significant</td>
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### Table ES-1  Summary of Environmental Impacts, Mitigation Measures and Residual Impacts

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<td>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.</td>
<td>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.</td>
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<td><strong>CR-4(b) Construction Monitoring</strong> 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.</td>
<td>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</td>
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<td>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</td>
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<td>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.</td>
<td>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.</td>
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<td>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.</td>
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**TRANSPORTATION/TRAFFIC**

| Impact T-1 Development facilitated by the proposed project would increase existing traffic levels on the local circulation system under the Existing Year (2013) scenario. However, all 10 intersections are forecast to operate at acceptable levels of service (LOS C or better) under this scenario. Therefore, impacts on the local circulation system under the Existing Year (2013) scenario would be Class III, less than significant. | None Required | Less than significant |
| 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. Therefore, impacts on future traffic levels in the 2020 and 2035 scenarios would be Class II, significant, but mitigable. | 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. The timing of this improvement will be dependent on traffic volume growth at the intersection, as determined through monitoring by the City. | |

City of Berkeley
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<td><strong>Impact T-3</strong> The proposed project would generate approximately 90 net new trips during the P.M. peak hour, which is below the Alameda County Transportation Commission's threshold of 100 vehicle trips. Impacts related to the CMP network would be Class III, less than significant.</td>
<td>None Required</td>
<td>Less than significant</td>
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1.0 INTRODUCTION

This document is an Infill Environmental Impact Report (EIR) for the proposed 2211 Harold Way Mixed-Use Project (the "project"). The project site is located in the City of Berkeley within Alameda County. The project site is regionally accessible via Interstate 80, and locally accessible via Shattuck Avenue, several AC Transit bus lines and the Downtown Berkeley Bay Area Rapid Transit (BART) station. The proposed project would involve residential and commercial mixed-use development, including 302 apartment/condominium units, 10,535 square feet of retail or restaurant uses, a 21,641-square foot cinema, and the construction of 171 auto parking spaces and 100 bicycle parking spaces. The project is described in greater detail in Section 2.0, Project Description. This section discusses:

(1) the environmental impact report background;
(2) the legal basis for preparing an EIR;
(3) the scope and content of the EIR;
(4) lead, responsible, and trustee agencies; and
(5) the environmental review process required under the California Environmental Quality Act (CEQA).

1.1 ENVIRONMENTAL IMPACT REPORT BACKGROUND

A Notice of Preparation (NOP) of an environmental impact report was prepared for the project and distributed for agency and public review for a 30-day review period that began on May 19, 2014. The NOP and responses are presented in Appendix A to the EIR, along with the Infill Environmental Checklist that was prepared for the project pursuant to Section 15183.3 and Appendix N of the CEQA Guidelines. The City received five comment letters responding to the NOP. The letters are listed and their content summarized in Table 1-1 below.

### Table 1-1
Scoping Comments Received

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<tr>
<th>Responder</th>
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<tr>
<td>1. State of California Department of Transportation</td>
<td>Caltrans provided comments regarding traffic during construction and operation that may affect nearby State highway facilities and may require a Traffic Impact Study. Comments encouraging the project applicant to locate housing, jobs, and neighborhood services near facilities that encourage people to use transit, walk, and bike to reduce regional vehicle miles traveled. Comments encouraging the project applicant to develop Travel Demand Management policies and to identify traffic impact fees for project mitigation. Impacts related to Transportation and Traffic are addressed in Section 4.2, Transportation/Traffic.</td>
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<td>2. Berkeley Architectural Heritage Association</td>
<td>Commenter states concerns regarding height and scale of the proposed project, and requests that historic resources be preserved. Requests that the EIR assess the project’s historic impacts at the site and on surrounding historic resources, including viewsheds. Requests that the EIR clearly describe the full scope of the project and the seismic condition of the buildings onsite. The project scope is described in detail in Section 2.0, Project Description. The project’s impacts on historic resources including views are discussed in Section 4.1, Cultural Resources.</td>
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<td>3. East Bay Municipal Utility District (EBMUD)</td>
<td>EBMUD comments that offsite pipeline improvements may be required to meet water and fire flow demands and that the applicant should contact EBMUD to request a water service estimate. Comments that EBMUD will not inspect, install, or maintain pipeline in contaminated soil or groundwater and that the applicant should remediate any onsite contamination. Comments that the project must meet the current EBMUD Wastewater Control Ordinance. Encourages the project applicant to use water-efficiency measures. Water and wastewater impacts are discussed in Section IX, Hydrology and Water Quality, and Section XVII, Utilities and Service Systems, of the Infill Environmental Checklist (Appendix A). The project applicant will be required to meet all required City Ordinances and standard EBMUD requirements.</td>
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<td>4. Alameda County Transportation Commission</td>
<td>ACTC comments that the project requires a transportation impact analysis using the Alameda Countywide Travel Demand Model. Comments that the EIR should address the project’s impacts on the Metropolitan Transportation System roadway network, the Countywide Bicycle Network, and Countywide Pedestrian Plan Areas of Countywide Significance. Comments that noise impacts should be analyzed. Transportation and traffic impacts are discussed in Section 4.2, Transportation/Traffic. Noise impacts are discussed in Section XII, Noise, of the Infill Environmental Checklist (Appendix A to the EIR).</td>
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<td>5. Steve Finacom</td>
<td>Commenter requests to review the Infill Environmental Checklist. Comments that the EIR should address public services impacts. Commenter suggests addressing potential impacts on historic resources, including scenic vistas and views from Campanile Way on the UC Berkeley campus. Requests an analysis of alternatives that reduce parking spaces onsite, that the project retain the 1959 Hink’s Building, and that the project reduce view impacts from the Campanile. The commenter requests that the EIR fully analyze project impacts on the views from the Campanile. Public services impacts are discussed in Section XVII, Utilities and Service Systems, of the Infill Environmental Checklist (Appendix A). Impacts to cultural resources, including a discussion of scenic vistas and views from the Campanile, are discussed in Section 4.1, Cultural Resources. Alternatives are discussed in Section 5.0, Alternatives. As the commenter suggests, two alternatives that would reduce the project’s historic impacts are discussed in Section 5.0. Historic resources impacts including those related to views from the Campanile are discussed in Section 4.1, Cultural Resources.</td>
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The City held two public meetings to discuss the proposed project: one before the Landmarks Preservation Commission and one before the Zoning Adjustments Board. The comments from the Commission and the Board are summarized in Table 1-2. The verbal comments from the public at these meetings are presented in the meeting transcripts that are included in Appendix A to this EIR; the comments therein that were relevant to the CEQA analysis and process are generally similar in scope and content to those in the comments summarized here.

Table 1-2
Comments From Landmarks Preservation Commission and Zoning Adjustments Board

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<td>1. Landmarks Preservation Commission</td>
<td>Commissioners suggested addressing potential impacts on historic and scenic vistas and views, particularly on Campanile Way from the UC Berkeley campus, as well as impacts to on site and nearby historic structures. Commissioners shared concern about the height and massing of the project. Commissioners suggested retrofitting the Shattuck Hotel and restoring the balconies on the Shattuck Hotel.</td>
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Table 1-2
Comments From Landmarks Preservation Commission and Zoning Adjustments Board

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<td>Commissioners were concerned about subterranean parking and impacts from pile driving onsite. Commissioners asked about the relationship of the Infill EIR to the Downtown Area Plan. Impacts to cultural resources, including a discussion of scenic vistas and views from the Campanile and impacts of pile driving, are discussed in Section 4.1, Cultural Resources. Design of the project and subterranean parking are discussed in Section 2.0, Project Description. An explanation of the CEQA Guidelines in relation to Infill EIRs is included in this section (1.0, Introduction).</td>
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<td><strong>2. Zoning Adjustments Board</strong></td>
<td>Board members inquired about aesthetic impacts, including building massing, and requested shadow analysis of the project. Board members stated concern about the height of the proposed building and impacts on historic structures. Specifically, members raised concern about the view of the project from the Campanile and other viewsheds, such as view north along Shattuck. Board members asked about impacts associated with demolition onsite, including impacts to the Shattuck Hotel. Board members also asked about the number of parking spaces that would be onsite, the parking proposed within the downtown core, traffic impacts of the project on area intersections, and impacts on pedestrians due to increased traffic. Members inquired about the relationship of the project EIR to the DAP EIR. The Board members were concerned about the economic impact on the hotel during construction and businesses in the vicinity of the project site. The Board members asked about open space in the Downtown Area Plan boundaries based on the state’s requirements of particular open space per resident. Aesthetic impacts, including impacts associated with the project’s height, are discussed in Section 1, Aesthetics, of the Environmental Checklist (Appendix A). Impacts on historic structures, including demolition impacts and viewshed impacts, are discussed in Section 4.1, Cultural Resources. Parking and traffic impacts are discussed in Section 4.2, Transportation/Traffic. The relationship of the Infill EIR to the DAP EIR is discussed in Section 2.0, Project Description. The economic impact on the hotel during construction and operation is not considered an environmental impact and is therefore not discussed in this Infill EIR. Open space in the downtown area is discussed in the DAP EIR, and the project conforms to the open space requirements established pursuant to the DAP.</td>
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1.2 PURPOSE AND LEGAL AUTHORITY

The project requires the discretionary approval of the City of Berkeley’s Zoning Adjustments Board and Landmarks Preservation Commission. Therefore, it is subject to the requirements of the California Environmental Quality Act (CEQA). In accordance with Section 15121 of the State of California Environmental Quality Act (CEQA) Guidelines, the purpose of this EIR is to serve as an informational document that:

...will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.
This EIR has been prepared as a Project EIR pursuant to Section 15161 and an Infill EIR pursuant to Section 15183.3 of the CEQA Guidelines. A Project EIR is appropriate for a specific development project. As stated in the CEQA Guidelines:

"This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project, including planning, construction, and operation."

The nature of an Infill EIR is discussed below.

This EIR is to serve as an informational document for the public and City of Berkeley decision-makers. The process will culminate with Zoning Adjustments Board and Landmarks Preservation Commission hearings to consider certification of a Final EIR and approval of the project.

1.3 SCOPE AND CONTENT

The 2014 CEQA Guidelines introduced Section 15183.3, Infill Streamlining updates, which were developed pursuant to SB 226 (Simitian, 2011). These purpose of Section 15183.3 is to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies. The Streamlining updates contain performance standards that can be used to determine an infill project’s eligibility for streamlined review. Pursuant to 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.

As discussed in the Infill Environmental Checklist (Appendix A to this 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 performance standards contained in Appendix M of the CEQA Guidelines. Examples of performance standards include remediation onsite, protection of public health, and proximity to an existing major transit stop/transit corridor. The information demonstrating that the infill 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.

For eligible infill projects, CEQA does not apply to the effects of the project in the following ways, pursuant to CEQA Guidelines Section 15183.3(c):

- 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.

If the infill project would result in new project-specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects are subject to CEQA pursuant to Guidelines Section 15183.3(d)(2)(C). With respect to those effects that are subject to CEQA, the lead agency must prepare an infill EIR if the written checklist shows that the effects of the infill project would be potentially significant. An infill EIR need not analyze growth inducing impacts.

This EIR addresses the issues determined to be potentially significant by the City of Berkeley in the context of the streamlining provisions discussed above. To identify potentially significant environmental issues, the City conducted a review of the project through an Infill Environmental Checklist (Appendix A to this EIR), pursuant to CEQA Guidelines Section 15183.3. The Infill Environmental Checklist determined that the proposed project would have potentially significant impacts related to cultural resources and transportation/traffic. Therefore, this Infill EIR addresses these two potentially significant impacts. The cultural resources section of the EIR includes a discussion of view impacts related to historic resources on the UC Berkeley campus; all other view impacts are discussed in the Aesthetics section of the Infill Environmental Checklist. For the reasons documented in the Infill Environmental Checklist, impacts in all other environmental areas would either be less than significant; were analyzed in the DAP EIR; or would be substantially mitigated by uniformly applicable development policies.

For the issue areas of cultural resources and transportation/traffic, the EIR identifies the potentially significant environmental impacts, including site-specific and cumulative effects of the project. In addition, the EIR recommends feasible mitigation measures, where possible, that would eliminate or reduce adverse environmental effects.

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 this CEQA analysis. A full reference list is contained in Section 6.0, References and Report Preparers.
The Alternatives section of the EIR (Section 5.0) was prepared in accordance with Section 15126.6 of the CEQA Guidelines. The alternatives discussion evaluates the CEQA-required “no project” alternative and two alternative development scenarios for the site. It also identifies the environmentally superior alternative among the alternatives assessed. It should be noted that, pursuant to CEQA Guidelines Section 15183.3(e), the analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities. Except as provided in CEQA guidelines, an infill EIR must contain all elements described in Article 9, Contents of Environmental Impact Reports.

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable legal precedent. The CEQA Guidelines provide the standard of adequacy on which this document is based. The Guidelines state:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure. (Section 15151)

While the CEQA review in this EIR has been streamlined to some extent pursuant to CEQA Guidelines Section 15183.3, project-specific analysis was required for transportation/traffic and cultural resources to meet the intent of Section 15183 and to provide the public and decision-makers with up to date and accurate environmental review for the project.

1.4 LEAD, RESPONSIBLE, AND TRUSTEE AGENCIES

The CEQA Guidelines define lead, responsible, and trustee agencies. The City of Berkeley is the lead agency for the project because it holds principal responsibility for approving the project.

A responsible agency refers to a public agency other than the lead agency that has discretionary approval over the project, and a trustee agency refers to a state agency having jurisdiction by law over natural resources affected by a project. There are no responsible or trustee agencies for the project.

1.5 ENVIRONMENTAL REVIEW PROCESS

The major steps in the environmental review process, as required under CEQA, are outlined below. The steps are presented in sequential order.

1. **Notice of Preparation (NOP).** After deciding that an EIR is required, the lead agency must send an NOP soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (CEQA Guidelines Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk’s office for 30 days. The NOP may be accompanied by an Initial Study or Infill Environmental Checklist that identifies the issue areas for which the proposed project could create significant environmental impacts.
2. Preparation of Draft Environmental Impact Report (DEIR). The DEIR must contain:
   a) table of contents or index;
   b) summary;
   c) project description;
   d) environmental setting;
   e) discussion of significant impacts (direct, indirect, cumulative, and unavoidable impacts);
   f) a discussion of alternatives; and
   g) mitigation measures.

3. Notice of Completion/Notice of Availability of Draft EIR. A lead agency must file a Notice of Completion with the State Clearinghouse when it completes a Draft EIR and prepare a Public Notice of Availability of Draft EIR. The lead agency must place the Notice in the County Clerk's office for 30 days (Public Resources Code Section 21092) and send a copy of the Notice to anyone requesting it (CEQA Guidelines Section 15087). Additionally, public notice of DEIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public, and respond in writing to all comments received (Public Resources Code Sections 21104 and 21253). The minimum public review period for a DEIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless the Clearinghouse (Public Resources Code 21091) approves a shorter period.

4. Final EIR (FEIR). A FEIR must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.

5. Certification of FEIR. Prior to making a decision on a project, the lead agency must in its independent judgment certify that: a) the FEIR has been completed in compliance with CEQA; b) the FEIR was presented to the decision-making body of the lead agency; and c) the decision-making body reviewed and considered the information in the FEIR prior to approving a project (CEQA Guidelines Section 15090).

6. Lead Agency Project Decision. A lead agency may: a) disapprove a project because of its significant environmental effects; b) require changes to a project to reduce or avoid significant environmental effects; or c) approve a project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (CEQA Guidelines Sections 15042 and 15043).

7. Findings/Statement of Overriding Considerations. For each significant impact of the project identified in the EIR, the lead or responsible agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (CEQA Guidelines Section 15091). If an agency approves a project with unavoidable significant
environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.

8. **Mitigation Monitoring Reporting Program.** When an agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.

9. **Notice of Determination.** An agency must file a Notice of Determination after deciding to approve a project for which an EIR is prepared (CEQA Guidelines Section 15094). A local agency must file the Notice with the County Clerk. The Notice must be posted for 30 days and sent to anyone previously requesting notice. Posting of the Notice starts a 35-day statute of limitations on CEQA legal challenges (Public Resources Code Section 21167(c)).
2.0 PROJECT DESCRIPTION

This section describes the project location, characteristics of the site and the proposed development, project objectives, and the approvals needed to implement the 2211 Harold Way Mixed-Use Project.

2.1 PROJECT APPLICANT

Joseph Penner
HSR Berkeley Investments, LLC

c/o Rhoades Planning Group
1611 Telegraph Avenue, Suite 200
Oakland, California 94612

2.2 PROJECT LOCATION

The project site is a portion of an irregularly shaped but generally square 1.63-acre larger property forming one city block in Downtown Berkeley, bounded by and fronting Shattuck Avenue to the east, Kittredge Street to the south, Harold Way to the west, and Allston Way to the north. The assessor’s parcel numbers for the larger property are 057-2027-00600, -00700, -00800, and -00900. The larger property has multiple addresses; the primary address in the assessor’s records and in the City’s parcel database is 2060 Allston Way. The project site itself – the primary area of proposed new development – is a 34,800 square-foot (0.8-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza (commonly referred to as the Shattuck Hotel) building beneath its existing retail space and movie theater entrance. The address for the project site is 2211 Harold Way.

Figure 2-1 shows the location of the project site within a regional context. The project site is regionally accessible from Interstate 580 and Shattuck Avenue. Figure 2-2 shows the immediate vicinity of the project site in Downtown Berkeley from an aerial perspective. Figure 2-3 shows the general configuration of existing development on the larger property.

2.3 CURRENT LAND USE AND REGULATORY SETTING

2.3.1 Current Land Use

The larger property where the project site is located consists of a fully urbanized city block that is generally level, sloping slightly downward towards the west and south. The project site – the area where existing buildings would be altered or demolished and new buildings constructed – is currently occupied by two structures, as shown on Figure 2-3. The first structure, known variously as the Postal Annex building and the 1959 Hink’s building, is a small office building with an area of US Post Office boxes on the corner of Allston Way and Harold Way, and was constructed in the 1950s. The second structure, known as the Hink’s Addition/Shattuck Cinemas, was the 1926 Hink’s Department Store addition to the Shattuck Hotel building. This
Regional Location Map

Figure 2-1
Project Location Map

Figure 2-2
Existing Project Site Development

Figure 2-3
structure has frontage on Kittredge Street and Harold Way, and houses the Shattuck Cinema's movie theaters, part of the Habitat Children's Museum, and office space. Both buildings are two stories in height with a partial third story and a basement level (although the theater rooms occupy the equivalent of two stories of vertical space in what is essentially one level of useable space). Existing uses in the areas to be altered or demolished on the project site are summarized in Table 2-1.

<table>
<thead>
<tr>
<th>USE</th>
<th>NET SQUARE FEET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office (combination of professional, institutional and medical)</td>
<td>41,170</td>
</tr>
<tr>
<td>Shattuck Cinemas</td>
<td>23,474</td>
</tr>
<tr>
<td>Children's Museum</td>
<td>7,056</td>
</tr>
</tbody>
</table>

Source: Rhoades Planning Group, January 2014

The structural area affected by the project also extends to a portion of the basement level sitting below the street retail and Shattuck Hotel building, as discussed below under Project Characteristics. Table 2-2 summarizes the existing characteristics of the project site and surroundings.

<table>
<thead>
<tr>
<th>Address:</th>
<th>Multiple, including 2211 Harold Way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessor's Parcel Numbers:</td>
<td>057-2027-00600, -00700, -00800, and -0090</td>
</tr>
<tr>
<td>Site Size:</td>
<td>38,400 square feet (0.88-acre)</td>
</tr>
<tr>
<td>General Plan Land Use Designation:</td>
<td>Downtown (DT); Downtown Area Plan “Core Area”</td>
</tr>
<tr>
<td>Zoning Designation:</td>
<td>Downtown Mixed Use District (C-DMU), Core Area</td>
</tr>
<tr>
<td>Current Use and Development:</td>
<td>Commercial and Institutional</td>
</tr>
<tr>
<td>Surrounding General Plan Land Use Designations:</td>
<td>North: DT; Downtown Area Plan &quot;Core Area&quot; South: DT; Downtown Area Plan &quot;Corridor&quot; East: DT; Downtown Area Plan &quot;Core Area&quot; West: DT; Downtown Area Plan &quot;Outer Core&quot;</td>
</tr>
<tr>
<td>Surrounding Zoning Designations:</td>
<td>North: C-DMU – Core Area South: C-DMU – Corridor Area East: C-DMU – Core Area West: C-DMU – Outer Core Area</td>
</tr>
</tbody>
</table>
Table 2-2
Existing Site Characteristics

<table>
<thead>
<tr>
<th>Public Services:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water: East Bay Municipal Utility District</td>
</tr>
<tr>
<td>Wastewater: East Bay Municipal Utility District</td>
</tr>
<tr>
<td>Fire Protection: Berkeley Fire Department</td>
</tr>
<tr>
<td>Police Protection: Berkeley Police Department</td>
</tr>
<tr>
<td>School District: Berkeley Unified, Central Zone</td>
</tr>
</tbody>
</table>

The project site is located in the “Core Area” zoning sub-area of the Commercial-Downtown Mixed-Use (C-DMU) zone within Downtown Berkeley, and is immediately surrounded by commercial, public and institutional land uses, as shown in Figure 2-2 above. The Downtown Core, as described in the Downtown Area Plan, is known for “its exceptional access to transit, shops amenities, and the UC campus. The Core Area contains BART, the convergence of over thirty bus lines, unique cultural resources, and the highest volume of foot traffic in the East Bay.”

2.3.2 Surrounding Land Uses

As noted above, directly adjacent to the project site and on the same block is the Shattuck Hotel, a City of Berkeley Landmark, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue. Below the hotel rooms along Shattuck Avenue is a row of commercial storefronts that are part of the project site, as well as the entrance to the Shattuck Cinemas, a 10-screen movie theater. The hotel currently has 199 guest rooms, a restaurant, a bar and meeting rooms.

Commercial uses are located along Shattuck Avenue north of and across from the project site. One block north, around the intersection of Center Street and Shattuck Avenue, are several AC Transit and UC Berkeley Shuttle bus stops serving a number of bus lines, as well as the Downtown Berkeley BART Station on Shattuck Avenue between Allston Way and Addison Street. South of the project site on Shattuck and across Kittredge Street is the Berkeley Central Library, a City of Berkeley and National historic landmark. West of the project site across Harold Way are the Dharma College and the Mangalam Center, both City of Berkeley Landmarks. Commercial land uses and a public parking structure are located north of the project site across Allston Way.

Building heights in the vicinity range from two to three stories (portions of the Dharma College complex on Harold Way and U.S. Post Office along Kittredge Street) to the 12-story 2140-2144 Shattuck Avenue Chamber of Commerce Building (173 feet) and 14-story 2150 Shattuck Avenue First Savings/Great Western Building (180 feet). The adjacent Shattuck Hotel is five stories in height, not including the basement. Most buildings around the project site are in the two- to five-story range.

Photographs of the project site and surroundings are shown in Figures 2-4 through 2-9.
Photo 1 - View of the Allston Street frontage of the existing “Postal Annex” building, also known as the 1958 Hink’s Building, at the corner of Harold Way and Allston Way, looking southwest from across Allston Way. The adjacent one-story 1912 Restaurant Addition portion of the Shattuck Hotel is visible to the left of the frame, and the Dharma College building across Harold Way from the site is visible in the right of the frame.

Photo 2 - View of the corner of and the Allston Way and Harold Way frontages of the 1958 Hink’s Building looking southeast from across Allston Way.
Photo 3 - View of the Harold Way frontage of the Shattuck Cinemas building, also known as the 1926 Hink's addition to the Shattuck Hotel, looking north from across Kittredge Street.

Photo 4 - View of the Kittredge Street-fronting portion of the 1926 Hink's Addition/Shattuck Cinemas building looking northeast from across Kittredge Street.

Existing Project Site Development
Photo 5 - View of the Kittredge Street-fronting portion of the 1926 Hink's Addition/Shattuck Cinemas building looking west from Kittredge Street.

Photo 6 - View of the Kittredge Street-fronting portion of the 1926 Hink's Addition/Shattuck Cinemas building looking west from Kittredge Street. A portion of the 1913 Shattuck Hotel addition is in the right of the frame.
Photo 7 - View of the Shattuck Hotel building, immediately adjacent to the project site, looking northwest from across Shattuck Avenue.

Photo 8 - View of the Shattuck Hotel building, immediately adjacent to the project site, looking south from Shattuck Avenue at Center Street. The adjacent BART station plaza and commercial development are in the right of the frame.
Photo 9 - The south side of Shattuck Avenue, looking northwest from Shattuck Avenue at Allston Way across from the Shattuck Hotel.

Photo 10 - The public library building across Kittredge Street from the project site, looking southwest from across Shattuck Avenue. A portion of the Shattuck Hotel is visible in the rightside of the frame.
Photo 11 - Development on Shattuck Avenue and Allston Way east of the project site, viewed looking east from across Shattuck Avenue.

Photo 12 - The adjacent Shattuck Hotel, and development to the east beyond, viewed from Allston Way looking east. A portion of the project site is visible at the right of the frame.

Surrounding Development
2.3.3 Land Use Regulatory Overview

City of Berkeley General Plan. The project site’s General Plan Land Use classification is Downtown. The Downtown classification is intended to “encourage, promote, and enhance development that will increase the residential population in the Downtown, provide new high density, transit-oriented housing opportunities, and support a vital city center. Uses appropriate for this area include: medium- and high-density housing, regional- and local-serving arts, entertainment, retail, office, cultural, open space, civic uses, and institutional uses and facilities. It is General Plan policy to increase the residential population in the Downtown.”

The General Plan also states that building intensity will generally range from a Floor Area Ratio up to 6:1 and that population density will generally range from 88 to 220 persons per net acre; however, the City’s Downtown Area Plan vision for development in the Core Area, discussed further below, supersedes the General Plan’s specific standards for Downtown development intensity. As discussed in the DAP EIR, the DAP was developed to provide specific policy guidance for future development in the Downtown Area; the DAP amended the General Plan, eliminating any conflict with General Plan Policies.

Downtown Area Plan. The Downtown Area Plan (DAP) provides additional, specific land use guidance within the Downtown area. The DAP classifies the project site as Core Area. (Site and surrounding DAP land use classifications are shown in Figure 2-10.) The DAP includes the following discussion of development potential in the Core Area: “Because of immediate access to BART, multiple bus lines, and walk-to conveniences, provisions for the Core Area allow the tallest buildings, including three buildings up to 180 feet.” The DAP identifies commercial uses, including retail and cinema, and multi-family residential uses, as allowed uses in the Core Area (DAP Policy LU-1.1).

Berkeley Municipal Code. The project site is located in the “Core Area” zoning sub-area of the Commercial-Downtown Mixed-Use (C-DMU) zone within Downtown Berkeley. (Site and surrounding zoning classifications are shown in Figure 2-11.) Specific allowed uses and development standards for the project site are thus contained in the Municipal Code in Chapter 23E.68, C-DMU Downtown Mixed Use District Provisions. Pursuant to Table 23E.68.030 in that section, retail, restaurant and mixed commercial and residential uses may be permitted in the C-DMU District. Pursuant to Section 23E.68.070, Development Standards, up to two residential buildings with ground-level commercial uses are allowed to reach heights up to 180 feet in the Core Area subarea of the C-DMU District.

Section 23E.68.080 of the Municipal Code prescribes standards for automotive and bicycle parking spaces in the C-DMU District. The minimum parking space requirements relevant to the proposed project are one and a half spaces per each 1,000 square feet of gross floor area and one space per three dwelling units. Parking spaces must be provided on-site, or offsite within 800 feet subject to securing an Administer Use Permit and in compliance with the off-street parking requirements in Section 23E.28.030. Bicycle parking spaces must be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of commercial space. In accordance with Section 23E.28.070, bicycle parking must be located in either a locker,
Site and Surrounding Downtown Area Plan Land Use Classifications

Source: City of Berkeley, 2012

Figure 2-10
or in a rack suitable for secure locks, upon the approval of the City Traffic Engineer and Zoning Officer.

Section 23E.68.080 requires that for new structures or additions over 20,000 square feet, the property owner provide a pass for unlimited local bus transit service or functionally equivalent transit benefit. Section 23E.68.085, Green Building Provisions, requires that new buildings in the C-DMU District attain a LEED Gold rating or higher, or its equivalent. Section 23E.68.065 affirms that projects that may create potentially significant environmental impacts, such as the proposed project, are subject to the adopted Mitigation Monitoring Program for the DAP EIR.

Finally, among the several findings required for approval of a Use Permit for a new building in the C-DMU District, the Zoning Adjustments Board must find that the project is compatible with the visual character and form of the District; that no designated landmark structure, structure of merit, or historic district in the vicinity would be adversely affected by the appearance or design of the project, and that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required.

**Downtown Design Guidelines.** The DAP also called for updates to the City’s Downtown Design Guidelines to update the design vision as appropriate and to address the potential changes envisioned by the DAP. Among the key site design guidelines for new construction applicable to the project include the following frontage, setback, and height guidelines:

1. **Maintain a continuous zero-setback "build-to line" at the ground floor at the edge of all Downtown streets where commercial and higher levels of activity is anticipated, as has been indicated in the map “Public Serving Frontages”** (see Figure 43). The only exceptions to this may be to: provide suitably defined, usable open space; create a special corner feature; provide recessed storefront entrances; create an arcade; to provide a narrow band of landscaping (see Figure 37); or to give emphasis to a civic building.

2. **On Downtown streets without commercial or higher levels of activity, bring buildings close to the street-facing property line while also providing landscaping.**

3. **Continue the rhythm of 15-30 foot spacing of structural bays and/or enframed storefronts at ground level, in order to establish visual continuity with existing buildings and create pedestrian scale.**

4. **Design recessed storefront entrances so they do not exceed 50% of the width of the storefront, nor ten feet in depth.**

5. **Consider massing alternatives that would reduce shadow impacts on streets and relate new construction to the scale of nearby buildings, such as use of upper-story setbacks. Consider ways that buildings with upper-story setbacks can avoid the “wedding cake effect,” such as by setting street-level entrances back to the same vertical plane as upper floors and/or by incorporating features that tie the building together visually** (see Figure 38).

6. **For new construction projects located on narrow east-to-west streets and over 75 feet in height, prepare an analysis of shade impacts on public open spaces and pedestrian sidewalks across the street. East of Shattuck, analyze visual impacts of ridgeline views to the east. Based on such analysis/analyses, consider upper floor setbacks, setbacks at street corners or other techniques to mitigate negative impacts.** (see #12 for Wind Impacts.)
7. Place entrances to storefronts and other ground floor uses so that they are accessible directly from the public sidewalk, not internal lobbies.

8. Design entrances of individual buildings to contribute positively to the street. Main entries should be clearly identifiable and inviting, and located to encourage interaction between open space and pedestrians.

9. New curb cuts in the Downtown core area are discouraged. Existing driveways may be relocated or replaced.

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

11. Along Oxford Street, consider ways to link Downtown to the University campus, such as with usable open space, public art and other features.

12. For buildings over 85 feet in height, prepare an analysis of potential wind impacts. Protect sidewalks and public open spaces by deflecting downward wind drafts ("wind shear") by using building setbacks, recesses, projections, and other devices (see Figure 40). For projects with potentially significant wind impacts, evaluate massing options with a wind tunnel or other simulation, such as are available at UC Berkeley’s College of Environmental Design.

13. Consider how the building’s form and orientation can take advantage of sun and shade to appropriately heat and cool the building.

2.4 PROJECT CHARACTERISTICS

Project Overview and Design.

The 2211 Harold Way Mixed Use Project is a proposed residential and commercial mixed-use development in Downtown Berkeley. 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 structures on the project site would be altered or demolished to accommodate the project, as detailed further below under Site Preparation and Construction. (Please see Figures 2-25 through 2-28 for the location and extent of proposed alteration and demolition of existing structures.)

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 (5 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 and 13th floors. Proposed materials are predominantly brick veneer panels, pre-cast concrete panels, glass, and glass spandrels.

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. The proposed project includes the following components:

- 302 apartment/condominium units (including 28 affordable units) with an average unit size of 729 square feet
- 1,499 square feet of lobby area
- A 1,403 square-foot community room available to be reserved by the residents for parties and other social events (not be available to the general public)
- Residential open space, consisting of 14,535 square feet of shared rooftop terraces and 11,045 square feet of private balconies and decks
- An AC Transit pass for each apartment/condominium unit and every employee for a duration defined during the City's Approval process
- Six new movie theaters to replace the existing Shattuck cinemas, totaling 21,641 square feet
- 10,535 square feet of retail and/or restaurant commercial floor area fronting Allston and Harold Ways and Kittredge Street
- 1,872 square feet of privately owned, publicly accessible open space at the corner of Kittredge Street and Harold Way with improvements including special paving and amenities, and street improvements along Harold and Allston ways including a speed table (please see the discussion below under Offsite Public Improvements for further details)
- 171 parking spaces in a three-level, subterranean parking structure accessed from Kittredge Street, including 11 electric vehicle charging stations and 6 spaces reserved for carsharing vehicles
- 100 secured bicycle storage spaces within the building, including spaces on the first level as well as in the parking garage
- Seismic reinforcement of the basement and ground levels of the existing Shattuck Avenue retail spaces (no exterior modifications). These areas are located below the Shattuck Hotel
- Roof-top solar energy and hot water production
- LEED Gold or equivalent environmental performance

Table 2-3 summarizes the basic project components.

<table>
<thead>
<tr>
<th>Use</th>
<th>Gross Floor Area (Square Feet)</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>278,185 (includes 57,893 square feet for residential circulation)*</td>
<td>302</td>
</tr>
<tr>
<td>Retail or Restaurant</td>
<td>10,535</td>
<td>n/a</td>
</tr>
<tr>
<td>Cinema</td>
<td>21,641</td>
<td>665 seats</td>
</tr>
<tr>
<td>Parking</td>
<td>79,109</td>
<td>171 auto</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100 bike</td>
</tr>
</tbody>
</table>

Max. Building Height: 180 feet/18 stories

* Residential circulation (includes residential core, circulation, amenities, storage, and ancillary spaces at ground floor such as the lobby, leasing office, fire command and bike storage)
The proposed site plan, selected floor plans and conceptual elevations are shown on Figures 2-12 through 2-24.

**Vesting Tentative Tract Map.** The project applicant proposes two subdivision map requests as a part of the project. The first subdivision map request would adjust the lot lines on the existing condominium parcel map that currently divides the land and air space between the hotel, retail, and the theaters. The second map request would create individual condominium units equal to the number of proposed residential units plus a number of additional condominium spaces (for example, common areas, commercial spaces, parking areas) consistent with the approved project and floor plans at the discretion of the owner. Residential units, whether rented or sold as condominiums, would be subject to the City’s affordability requirements (i.e., mitigation or in-lieu fees, and/or on-site below-market-rate units).

**Residential Component.** The residential component is proposed to be accommodated on floors 2 through 18 of the proposed project. Residential units would be accessed from a residential lobby on Harold Way or from the below-grade parking garage. The unit count and size range are shown in Table 2-4.

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Count</th>
<th>Size Range (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>76</td>
<td>474 - 774</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>145</td>
<td>583 - 979</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>75</td>
<td>752 - 1,085</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>6</td>
<td>1,103</td>
</tr>
<tr>
<td>TOTAL</td>
<td>302</td>
<td>n/a</td>
</tr>
</tbody>
</table>

*Table 2-4 Residential Unit Summary

*Source: MVE Institutional, Inc., January 2014*

If the project’s residential units are rented, ten percent of the market rate units, or 28 units, are proposed to be designated as below-market-rate units affordable to households earning 50% or less of Area Median Income.
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Assuming this just printed wrong?
Proposed private open space for project residents would consist of:

- 10,268 square feet of 13th floor terrace space with outdoor cooking and entertaining facilities, community gardens, and fireplace area, and
- 11,045 square feet of usable balconies and terraces for selected units.

Additionally, the project would include a 1,872-square-foot privately owned public open space plaza.

**Theater/Cinema Component.** The proposed project includes a six-screen, 665-seat movie theater that would be accessed from Shattuck Avenue via the same entry location as the existing Shattuck Cinemas access. Theater-goers would access theater rooms from a concourse and concession area at the basement level, after descending from street level. The basement level would be lowered by six feet from its current level to provide adequate space for the theater. Three of the theater rooms would have stadium-style seating and would extend vertically from the basement level to the third floor of the project, and slightly above the second floor of the Hotel Shattuck. A fourth theater room would extend from the basement level to the second floor of the project, and the remaining theater rooms would be entirely within the basement below the ground floor retail strip. The floor area devoted to cinema and related uses would be approximately 21,641 square feet, which would extend under the southern portion of the existing ground floor retail area.

**Retail and Restaurant Component.** Proposed retail and/or restaurant commercial space would all be on the first (ground floor) level and would be located primarily along Harold Way. One retail space would wrap onto Allston Way at the southeast corner of Harold and Allston ways. A portion of the building on Kittredge Street, between Harold Way and a proposed driveway (described below), would be occupied by retail or restaurant storefronts, as well as the project leasing office. Proposed retail/restaurant space would total approximately 10,535 square feet, which could be divided between several tenants.

**Access, Parking, Circulation and Transportation Demand Management.** Vehicular access to the project’s proposed parking garage would be provided via a two-way driveway from Kittredge Street down to a proposed three-level subterranean parking garage accommodating 171 parking spaces. Of these, 26 would be “small car” spaces and six would be car-sharing spaces. The residential parking spaces would be leased separately from the residential units, and AC Transit passes would be provided, consistent with Section 23E.68.080 of the Berkeley Municipal Code. Of the 171 parking spaces, 11 electric vehicle charging stations would be provided within the garage. Also 100 secure bicycle parking spaces would be provided (36 on the ground level, 64 in the first parking level). The project may make up to 39 parking spaces (equal to the number of spaces on the first basement parking level) available to the public and/or the Shattuck Hotel.

Pedestrian access would be incorporated from all four fronting street sidewalks. The main entrance to the proposed movie theater would be from Shattuck Avenue; the primary residential access would be through the lobby on Harold Way; and retail access would be to each storefront along Harold Way and Kittredge Street. The existing private alley from Allston Way would remain as a service entrance for the hotel and the proposed project.
Offsite Public Improvements. A number of offsite, public streetscape and mobility improvements are proposed. Bulb-outs on both sides of Harold Way would be constructed at its intersections with Allston Way and Kittredge Street. One of these would accommodate public bicycle racks. Approximately 11 new street trees along Harold Way and Kittredge Street would be installed to replace the seven that would be removed. Selected tall street lights would be replaced with shorter pedestrian-scaled lights, and additional pedestrian scaled lights would be installed on Harold Way.

At the corner of the site at Harold Way and Kittredge Street, a 1,872 square-foot exterior plaza area would include a formal entry for the proposed new building and a public space at the northeast corner of Harold and Kittredge (see Figure 2-14 above). The plaza could provide seating for customers of the proposed restaurant and café spaces. Construction materials would include stone and hardwoods, and planters with steel, cast stone and concrete. The Harold Way crossing area adjacent to Kittredge Street would include an enhanced treatment with textured or colored paving, landscape pockets, and bollards. Surrounding sidewalks and crossings would be treated with decorative paving. Other improvements would include installation of a speed table to calm traffic and to enhance the public right-of-way providing access to the Berkeley Central Library, the Armstrong College Property, the Library Gardens and the project, and installation of street furniture such as benches, planters with seat walls, and additional bike racks. These improvements would be refined and finalized in coordination with City staff, in accordance with applicable City standards.

Sustainable Building Features. The proposed project is designed to achieve a LEED Gold (or equivalent) rating, as required under Section 23E.68.085.A of the Berkeley Municipal Code. The project’s sustainability features include:

- Compliance with Title 24 of California’s Building Standards Code
- Roof gardens with flow through planters to reduce heat island effect and capture water
- Solar shading for residential units
- Rooftop solar panels for hot water and electric power generation
- Reuse of captured rainwater for landscape irrigation
- Installation of drought-tolerant plants and materials
- Transportation Demand Management features as listed above, including unbundled parking (parking that is leased separately from dwelling units), AC Transit passes for each residential household and every commercial employee, six car share and 11 dedicated electric vehicle charging spaces equipped with chargers, and secure bicycle parking.

Site Preparation and Construction. The existing 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 (refer to Figure 2-3 for the location of these buildings on the site) would be removed or altered to prepare the site for construction of the proposed project, including some alteration of the underground areas. Figures 2-25 through 2-28 illustrate the proposed limits of alteration and demolition. Approximately 36,000 cubic yards of grading would be required for site preparation and excavation for the subterranean parking garage. The maximum depth to the bottom of the lowest proposed foundation would be approximately 34
feet below the existing street-level grade. Pile driving would not be required; rather, a mat foundation (a type of continuous thick-slab foundation supporting the entire structure) varying from approximately three to six feet in thickness is proposed. Demolition and construction would require approximately 18-24 months.

Proposed changes to the retail strip and basement under the Shattuck Hotel (which is not owned by the project proponent), include the creation of a new cinema lobby on the ground floor and adding two theaters in the basement. There would be three major components to the associated structural work:

1. Frame out a new 20’ by 20’ opening in the ground floor to create a two story lobby. This would require new steel beams and girders.
2. Lower the basement floor by six feet to create the head-room necessary for the two new theaters. This would require the removal of the basement slab, soil excavation, and construction of new footings, retaining walls, and floor in the areas where the new theaters will be located.
3. Seismically strengthen the area affected by the new construction and the retail strip under the Shattuck Hotel. This would require the addition of four concrete shear walls that would extend from the basement to the underside of the second floor. This work would not seismically strengthen the entire building, but only the area directly affected by the new construction. This structural work would not be visible from the exterior of the building. It should be noted that the proposed new building’s foundation system would be integrated with and would complement the existing Shattuck Hotel foundation system where it may come in contact.

No other changes are proposed to the Shattuck Hotel building.

Utilities and Services. The proposed project would include utility connections in accordance with requirements of the applicable utility providers for water, wastewater, storm water drainage, power, and telecommunications services. These utilities would connect to existing infrastructure in the vicinity of the site. Pacific Gas & Electric would provide electrical and natural gas services, East Bay Municipal Utility District would provide water and sewer service, and the City of Berkeley would provide storm water services and solid waste services. The project would rely on existing public services, including but not limited to, City of Berkeley police and fire protection, Berkeley Unified School District for schools, and parks and open spaces provided by the City of Berkeley, East Bay Regional Parks District, the County of Alameda and the State of California.
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Proposed Upper Level Alteration and Demolition Plan

Figure 2-27

City of Berkeley
2.5 PROJECT OBJECTIVES

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

1. 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.

2. Generate much-needed high-quality, transit-oriented, and sustainable market rate housing to support and contribute substantial affordable housing (and/or in-lieu fees) as required by Section 22.20.065 of the Berkeley Municipal Code.

3. 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.

4. 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.

5. Secure Downtown as a major cinema destination by replacing aging deficient theater boxes with state-of-the-art cinemas.

6. 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.

7. 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.

8. Provide a superior green building using environmentally sustainable siting, development, and construction practices.

9. Use ecologically beneficial landscaping that promotes watershed health and creates safe, comfortable, and inviting open spaces.

10. 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.

11. 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.

12. 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.
2.6 REQUIRED APPROVALS

The proposed project is subject to approvals by both the City of Berkeley’s Zoning Adjustments Board and the City’s Landmarks Preservation Commission. The project would require the following discretionary entitlements from the City of Berkeley:

- Use Permit for a Mixed Use Development in the C-DMU Zoning District
- Use Permit to allow the service of beer, wine and distilled spirits incidental to food service
- Administrative Use Permit to allow more than 2,000 square feet of Full Service Restaurant space
- Administrative Use Permit to allow amplified live entertainment incidental to food service
- Use Permit to construct more than 10,000 square feet of floor area
- Use Permit to exceed a building height of 75 feet
- Administrative Use Permit to allow mechanical penthouse to exceed maximum building height
- Use Permit to demolish a non-residential building (1959 Hink’s Building)
- Structural Alteration Permit for the alteration of the Shattuck Hotel Landmark structure and site (1926 Hink’s Department Store addition and interior portions of 1913 addition to be altered), and demolition of the 1959 Hink’s Building at Allston and Harold Ways.
3.0 ENVIRONMENTAL SETTING

This section provides a general overview of the environmental setting for the project. A detailed description of the environmental settings germane to the main issue areas studied in this EIR can be found in Section 4.1, Cultural Resources, and Section 4.2, Transportation/Traffic.

3.1 REGIONAL SETTING

The project site is located in the City of Berkeley, Alameda County, within the greater San Francisco Bay Area (refer to Figure 2-1, Regional Location, and Figure 2-2, Project Location, in Section 2.0, Project Description). Berkeley is located approximately 6.5 miles northeast of downtown San Francisco. The City is bounded to the north by the City of Albany, to the east by Contra Costa County and the City of Oakland, to the south by the cities of Oakland and Emeryville, and to the west by the San Francisco Bay. Berkeley has a Mediterranean climate with dry summers and wet winters. Summers in Berkeley are cooler than typical Mediterranean climates due to upwelling ocean currents along the California coast. The average rainfall is 24 inches a year. The region is subject to various natural hazards, including earthquakes, landslides, and wildfires.

3.2 PROJECT SITE SETTING

The project site is fully developed with existing structures and is generally level, sloping gently downward towards the west and south. The site is immediately surrounded by commercial, public and institutional land uses in the Downtown Area of Berkeley. The Shattuck Hotel, a City of Berkeley Landmark, is located adjacent and to the northeast of the project site and on the same city block. Commercial uses are located along Shattuck Avenue north of and across from the project site. One block north, around the intersection of Center Street and Shattuck Avenue, are several Alameda County Transit and University of California Berkeley Shuttle bus stops serving a number of bus lines, as well as the Downtown Berkeley BART Station on Shattuck Avenue between Allston Way and Addison Street.

South of the project site on Shattuck and across Kittredge Street is the Berkeley Central Library, a City of Berkeley and National historic landmark. West of the project site across Harold Way are the Dharma College and the Mangalam Center, both City of Berkeley Landmarks. Commercial land uses and a public parking structure are located north of the project site across Allston Way.

Building heights in the vicinity of the project site range from two to three stories (portions of the Dharma College complex on Harold Way and U.S. Post Office along Kittredge Street) to the 12-story 2140-2144 Shattuck Avenue Chamber of Commerce Building (173 feet) and 14-story 2150 Shattuck Avenue First Savings/Great Western Building (180 feet). The adjacent Shattuck Hotel is five stories in height, not including the basement. Most buildings around the project site are in the two- to five-story range.
3.3 CUMULATIVE PROJECTS SETTING

CEQA defines cumulative impacts as two or more individual actions that, when considered together, are considerable or will compound other environmental impacts. Cumulative impacts are the changes in the environment that result from the incremental impact of development of the proposed Project and other nearby projects. For example, the traffic impacts of two nearby projects may be insignificant when analyzed separately, but could have a significant impact when analyzed together. Cumulative impact analysis allows the EIR to provide a reasonable forecast of future environmental conditions and can more accurately gauge the effects of a series of projects.

CEQA states that a discussion of cumulative impacts should include either: 1) a list of past, present and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or 2) a summary of projections contained in an adopted general plan or related planning document which described or evaluated regional or area wide conditions contributing to the other cumulative impact.

Table 3-1 lists current planned and pending projects in Berkeley’s Downtown Area Plan study area. These projects are considered in the cumulative analyses in Section 4.0, Environmental Impact Analysis. These projects are consistent with the overall buildout of the Downtown Area as envisioned in the Downtown Area Plan, and are within the development potential under the Plan that was analyzed in the Downtown Area Plan EIR.

<table>
<thead>
<tr>
<th>Location</th>
<th>Commercial Floor Area (Net Square Feet)</th>
<th>Dwelling Units</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1935 Addison</td>
<td>-4,276</td>
<td>69</td>
<td>Demolition of commercial buildings and construction of mixed-use project</td>
</tr>
<tr>
<td>2024 Durant</td>
<td>0</td>
<td>97</td>
<td>Demolition of church and construction of residential units</td>
</tr>
<tr>
<td>2107 Dwight</td>
<td>-15,507</td>
<td>99</td>
<td>Demolition of commercial buildings and construction of mixed-use project</td>
</tr>
<tr>
<td>2201 Dwight</td>
<td>-21,511</td>
<td>77</td>
<td>Demolition of commercial building and construction of residential project</td>
</tr>
<tr>
<td>2489 Martin Luther King</td>
<td>1,725</td>
<td>21</td>
<td>Mixed-use project on vacant site</td>
</tr>
<tr>
<td>1951 Shattuck</td>
<td>-7,306</td>
<td>79</td>
<td>Demolition of commercial buildings and construction of mixed-use project</td>
</tr>
<tr>
<td>2129 Shattuck</td>
<td>89,500</td>
<td>293 hotel rooms</td>
<td>Demolition of bank and construction of</td>
</tr>
</tbody>
</table>
### Table 3-1  
Cumulative Projects in Berkeley's Downtown Area Plan Study Area

<table>
<thead>
<tr>
<th>Location</th>
<th>Commercial Floor Area (Net Square Feet)</th>
<th>Dwelling Units</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2323 Shattuck</td>
<td>2,609</td>
<td>15</td>
<td>Mixed-use project on existing parking lot</td>
</tr>
<tr>
<td>1974 University</td>
<td>2,548</td>
<td>102</td>
<td>Demolition of auto repair building and construction of mixed-use project</td>
</tr>
<tr>
<td>2133 University</td>
<td>-23,778</td>
<td>205</td>
<td>Mixed-use project</td>
</tr>
<tr>
<td><strong>Approximate Cumulative Total</strong></td>
<td><strong>21,395</strong></td>
<td><strong>1,057</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: City of Berkeley, 2014

All totals are approximate based on standard uncertainties related to specific project information.

A negative value indicates the loss of a quantity relative to existing development at a location.
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Letter 52

COMMENTER: Mark A. Rhoades, AICP, Principal, Rhoades Planning Group

DATE: December 1, 2014

RESPONSE:

Response 52.1

The commenter, representing the project applicant, introduces the letter and the comments to follow, and states an opinion that the Draft EIR is well prepared and “fairly thorough.” These comments are noted. The commenter also refers to pages from the Draft EIR that have been marked with handwritten comments and are attached to the letter; these comments generally reflect the comments in the letter itself or are editorial comments that would not affect the analysis or conclusions, and are thus not responded to individually here.

Response 52.2

The commenter states an opinion that the Draft EIR’s “readability” could be improved with an expanded introduction that more clearly connects the Downtown Area Plan (DAP) EIR’s previous environmental review with the review of the proposed project, and makes specific suggestions to this end. The information requested by the commenter is generally already included in the Draft EIR, both in the Introduction (Section 1.0) and in the introductory sections of the Infill Environmental Checklist (Appendix A to the Draft EIR). The suggested edits are not required, as the Draft EIR is adequate in its explanation of the circumstances referenced by the commenter. Nevertheless the following text is added in the Final EIR before the last paragraph on Page 1-4 of Section 1.0, Introduction, to provide additional clarity regarding the scope of the Draft EIR:

In addition, Section 21099 of CEQA Statute (California Public Resources Code 21000–21177) 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.

Response 52.3

The commenter suggests a discussion of the requirements for an infill EIR be included in Section 1.0. This information is generally already included in the Draft EIR, both in the Introduction (Section 1.0) and in the introductory sections of the Infill Environmental Checklist (Appendix A to the Draft EIR). However, for additional clarity, a number of text edits and additions have been made in Section 1.0, Introduction, of the Final EIR. These changes are shown in Section 4.1, Draft EIR Text Revisions, of this document.
Response 52.4

The commenter suggests that the EIR be reorganized so that the Infill Environmental Checklist precedes the main body of the EIR. This suggestion is noted, but the EIR’s organizational order is adequate as presented in the Draft.

Response 52.5

The commenter suggests that the checklist and executive summary should expressly state whether the infill project incorporates all applicable mitigation measures from the DAP EIR. This information is generally noted in the Infill Environmental Checklist under each topical issue area, and is part of the project’s required Mitigation Monitoring and Reporting Program. As additional clarification, the underlined text below has been added to Page 57 of the Infill Environmental Checklist (Appendix A to the EIR):

This Report presents the written checklist that cites the specific portions of the DAP EIR, including page and section references, containing the analysis of the Project's potential significant effects. For this reason, this analysis begins with reference to the Project Description in the DAP EIR to demonstrate that the Project is generally included within the overall plan area buildout described in the Project Description for the DAP EIR. It should also be noted that all applicable mitigation measures from the DAP EIR have either been incorporated into the project or would be included in the Mitigation Monitoring and Reporting Program and, if the project is approved, the Conditions of Approval.

Response 52.6

The commenter suggests that reference to Appendix F to the Infill Environmental Checklist (the wind impact study) should be included in the EIR and in the Table of Contents. Please see Response 4.21, above.

Response 52.7

The commenter requests that the following language be added to the EIR in Section 2.0, Project Description:

“The range of intensities and densities that appear in the General Plan are not General Plan policies, and were left intact with the adoption of the DAP in 2012. General Plan policy amendments took place in 2012 as part of Resolution 64,581 including amendments to Policy LU-16, which gives full authority to the DAP goals and policies - and the densities and FARs they imply. General Plan policies citing Downtown FAR and building heights were struck with DAP adoption.”

The first portion of the suggested text is not accurate, in that City Council Resolution 64,581 amended the General Plan to delete the FAR and density ranges previously specified for the Downtown on General Plan page LU-25, and inserted language consistent with the Downtown Area Plan. The remaining portion of the suggested text need not be added to the EIR, as no policy inconsistency related to floor to area ratios (FARs) or density were identified in the Draft.
EIR nor in any comments on the EIR. The project’s consistency with adopted ordinances and policies is discussed in the Infill Environmental Checklist, Appendix A to the Draft EIR, under Item X, Land Use and Planning.

Response 52.8

The commenter states an opinion that consistency with DAP policies LU-1.1 and HD-4.1 “set critical context for environmental evaluation” and must “as a matter of law” be included in the evaluation of project alternatives. The legal basis for this statement is not provided by the commenter, nor is the reason that these policies set “critical” context, relating as they do mainly to design details rather than environmental impacts. It should be noted that Policy HD-4.1 is mentioned appropriately in the Infill Environmental Checklist under Item X, Land Use and Planning. Section 5.0, Alternatives, appropriately focuses primarily on environmental impacts of the alternatives that were identified as potentially significant for the project in the Draft EIR. Consistent with CEQA Guidelines, the EIR discussions of policy consistency appropriately focus on applicable land use plans, policies or regulations “adopted for the purpose of avoiding or mitigating an environmental effect.” The commenter’s assertion that the Preservation Alternative would be inconsistent with the cited policies is noted and will be forwarded to the City’s decision makers for their consideration. No changes to the EIR are warranted.

Response 52.9

The commenter states an opinion that the Preservation Alternative would be inconsistent with Section 23E.68.060 Use Limitations of the Berkeley Municipal Code. Please see Response 52.8.

Response 52.10

The commenter states an opinion that the Preservation Alternative would be inconsistent with cited provisions of the Downtown Design Guidelines. Please see Response 52.8.

Response 52.11

The commenter states an opinion that the Draft EIR doesn’t include analysis of potential impact on a possible historic district. The “possible historic district” to which the commenter refers is the Shattuck Avenue Commercial Corridor, which is described on Page 4.1-1 in Section 4.1, Cultural Resources, of the Draft EIR and Section 6.5 of the HRTR in Appendix B of the Draft EIR. This possible district has never been formally adopted by the City of Berkeley and it was beyond the scope of this EIR to determine whether such a designation is apt. Instead, the impacts analysis focused on specific identified historical resources (some of which fall within the Shattuck Avenue Commercial Corridor) that could potentially be impacted by the proposed project.

The historic resources sub-consultant, ARG, worked with the City of Berkeley to define the project vicinity, which is bounded by Center Street on the north, Milvia Street on the west, Bancroft Way on the south, and on the east by a line generally running mid-block between Shattuck Avenue and Oxford Street/Fulton Street. This is described in more detail in on Page 4.1-21 in Section 4.1, Cultural Resources, of the Draft EIR and Section 6.5 of the HRTR in
Appendix B of the Draft EIR. Historical resources outside this boundary are considered to be too far from the project site to be impacted by the proposed project.

Section 4.1, Cultural Resources, of the Draft EIR includes on Page 4.1-22 an identification of historical resources in the vicinity of the project site, and Section 4.1.2.b of the Draft EIR and Section 8.2 of the HRTR in Appendix B of the Draft EIR comprehensively considers potential project-related impacts to those resources. No changes to the EIR are warranted.

Response 52.12

The commenter states an opinion that the Draft EIR must reference Downtown Area Policy HD-3.2 in discussing the compatibility of the proposed project with adjacent historic resources on Page 4.1-30, as it recognizes continued variety in building height, massing, and scale as part of the Downtown context. This comment is noted. Please see Response 52.8.

Response 52.13

The commenter states an opinion that the Draft EIR presents an inadequate discussion of the Berkeley Municipal Code’s C-DMU findings related to compatibility with visual character and form of the Downtown, and further opines that no designated landmark will be adversely affected by the appearance of a proposed addition. Findings are made by the City’s decision makers rather than in CEQA documents; this comment will be forwarded to the decision makers for their consideration. The Draft EIR in Section 4.1, Cultural Resources, provides analysis and conclusions related to the project’s potential impacts on adjacent historic resources; as discussed there, those impacts would be less than significant with mitigation incorporated.

Response 52.14

The commenter states an opinion that the removal of the 1926 Hink’s addition would not have an impact because the Hink’s addition does not contribute to the Shattuck Hotel element of the Landmark.

As stated on Page 4.1-18 of Section 4.1, Cultural Resources, in the Draft EIR and Section 6.2 of the HRTR in Appendix B of the Draft EIR, the Shattuck Hotel and former Hink’s Department Store appear to qualify for listing under Criterion A/1 for their association with the early commercial development of Downtown Berkeley. Language in the Draft EIR has been revised to clarify that it is the report preparer’s finding that the 1926 addition should not be considered a contributor to the Shattuck Hotel’s significance under Criterion C/3; see Response 4.40 for revisions to the Draft EIR and HRTR. That said, the 1926 addition is still a contributor to the property’s significance under Criterion A/1 and its removal constitutes a significant impact to historical resources. See Response 4.37.

Response 52.15

The commenter states an opinion that the 1926 Hink’s addition has very little integrity to convey the purpose for which it was built. Continuity of use is not required for a property to possess historic integrity and no change to the Draft EIR or the HRTR is warranted. As explained in Section 5.1 of the HRTR:
To determine if a property retains the physical characteristics corresponding to its historic context, the National Register has identified seven aspects of integrity:

*Location* is the place where the historic property was constructed or the place where the historic event occurred.

*Setting* is the physical environment of a historic property.

*Design* is the combination of elements that create the form, plan, space, structure, and style of a property.

*Materials* are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

*Workmanship* is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

*Feeling* is a property’s expression of the aesthetic or historic sense of a particular period of time.

*Association* is the direct link between an important historic event or person and a historic property.

While maintaining a constant use over time can certainly strengthen a property’s integrity of association, the loss of a given use, especially in the case of retail properties (which tend to change tenants frequently) does not necessarily compromise integrity of association.

As stated on Page 4.1-20 of Section 4.1, *Cultural Resources*, of the Draft EIR and Section 6.4 of the HRTR, the Shattuck Hotel property (including the 1926 addition) retains sufficient integrity to convey its historic significance.

The commenter further opines that the building retains integrity in the exterior, but not the interior. This comment is consistent with the Draft EIR in that the exterior of the 1926 addition generally retains integrity. This integrity is sufficient to convey the building’s historic significance. Changes to the building interior over time are to be expected given the property’s longstanding retail use and do not change the Draft EIR’s finding of sufficient integrity.

The commenter states an opinion that the exterior of the 1926 addition was compromised due to the addition of the basement entry. Permit research did not confirm what specific features, if any, of the basement entry along Kittredge Street near Harold Way are original. But even if this entry is not original and deemed architecturally incompatible with the building, the 1926 addition continues to retain sufficient integrity to convey its historic significance.

**Response 52.16**

The commenter states an opinion that the Draft EIR does not accurately reflect the level of view obstruction the project would result in from Campanile Way, and suggests the text “the project
partially obscures limited portions of less than one-quarter of the bay view portion of the overall view shed when seen from select locations.” The commenter’s text is generally correct. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for more information on this topic. The topical responses, as all of these responses, are part of the Final EIR.

Response 52.17

The commenter suggests that the EIR include a plan diagram to show where the project would be visible or not visible at the base of the Campanile and Campanile Way. This suggestion is noted, but is not necessary to convey the fact that, as discussed in Topical Response B, Impacts to the Westward View from Campanile Way, the project would block only a portion of the existing view from the middle of the top stair immediately west of the Campanile. View blockage from many other points at the base of the Campanile and areas to the immediate west would be less substantial, particular in the southern half of the base area and Campanile Way below. For example, Draft EIR Figure 4.1-4 shows how the view from the north side of the stairs at the base of the Campanile would be affected; this is the viewpoint with the maximum view obstruction from the stairs. As shown in figures 4.1-5 and 4.1-6, simply moving from one side of the staircase to the other would diminish the impact and in fact the project would not be visible from the south side of the staircase. Please note that the locations of the UC Berkeley campus viewpoints discussed in the Draft EIR are shown on Figure 4.1-3 in Section 4.1, Cultural Resources, for easy reference to the discussion of how these different viewpoints would be affected.

Response 52.18

The commenter states an opinion that CEQA requires that existing conditions be the basis of analysis, in the context of the trees within the westward view from Campanile Way. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for a response to this comment.

Response 52.19

The commenter suggest that the photosimulations included in the EIR should show the latest draft of the building design, which removed trees and trellis structures from the northern portion of the 12th floor roof deck, and which reduce view impacts. Please see figures 1 through 6 in Section 3.1, Topical Responses, above.

Response 52.20

The commenter states an opinion that the EIR should note that the DAP EIR modeled a 225-foot building on this site. This is explained in the Infill Environmental Checklist which, as an appendix to the Draft EIR, is part of the EIR. The commenter also opines that the DAP-required 120-foot maximum diagonal width for the portion of the building over 120 feet in height applied to that scenario, and that upper floors were approximately 60 feet east-west by 100 or more feet north-south. This comment is noted.
Response 52.21
The commenter states an opinion that the discussion of the view as discussed in the DAP EIR that is included on Page 69 of the infill checklist should either be referenced or included in the project EIR’s discussion of this view. The Infill Environmental Checklist, as an appendix to the Draft EIR, is part of the EIR. That discussion notes that the view obstruction would be similar to, but less adverse than, what was modeled for the site in the DAP EIR, but also notes that the view from the base of the Campanile was not specifically discussed and analyzed in the DAP EIR, which focused on the view from the top of the Campanile. The project would not block any bay views from the top of the Campanile.

Response 52.22
The commenter suggests that the introduction to the traffic analysis in the Draft EIR should acknowledge that CEQA legislation (SB743) was enacted recently, and will prohibit use of Levels of Service (LOS) analysis to evaluate transportation impacts as of January 1, 2017. This information is noted, but is not relevant to the Draft EIR; the Final EIR is anticipated to be considered by the City’s decision makers almost two years prior to the date when the referenced standards would be in effect. As discussed in Section 4.2, Transportation/Traffic, of the Draft EIR, project-specific traffic impacts would be less than significant with mitigation incorporated.

Response 52.23
The commenter states an opinion that both the Preservation Alternative and the Contextual Alternative as described in Section 5.0, Alternatives, of the Draft EIR would be inconsistent with the project’s objectives and with many of the goals and policies of the DAP and the City’s Streets and Open Space Improvement Plan (SOSIP). The applicant further opines that both alternatives include building massing that is more costly to construct, less consistent with DAP policies, jeopardizes the movie theaters, and reduces residential yield. Please see Response 52.8.

Response 52.24
The commenter states an opinion that both alternatives include retention of the former Hink’s Department Store addition’s façade. As described in Section 5.0, Alternatives, of the Draft EIR, only the Preservation Alternative includes partial retention of the 1926 addition. The Contextual Design Alternative does not.

The commenter further opines that in order to make the Preservation Alternative consistent with the Downtown Design and SOSIP Guidelines, the project would require a level of façade alteration that would render the project inconsistent with the Secretary of the Interior’s Standards for resource preservation. This comment is noted; however, regardless of the final design, partial retention of the 1926 addition would be more in keeping with the Secretary of the Interior’s Standards for Rehabilitation than would the proposed project’s demolition of the 1926 addition, and would also probably be more economically feasible than a preservation design with more limited exterior alterations or additions to the site.
Response 52.25

The commenter presents additional reasons that, in his opinion, the alternatives studied in the Draft EIR are inconsistent with the DAP. It should be noted that, as discussed in the Infill Environmental Checklist, the proposed project is also inconsistent with several DAP policies. The City decision makers’ consideration of alternatives will require weighing and comparison of features and impacts of the alternatives and the proposed project. Please see also Response 52.8.

Response 52.26

The commenter states an opinion that the Preservation Alternative would be financially infeasible to construct. This comment is noted. Feasibility of alternatives is one aspect of the supporting information for CEQA findings, should they be made for the project. Please see also responses 52.8 and 52.25.

Response 52.27

The commenter states an opinion that the smaller theater in the Contextual Alternative would render a theater infeasible and would therefore result in a significant negative impact on the Downtown’s cultural arts industry. This comment is noted. As discussed above in Topical Response D, Demolition of the Shattuck Cinemas, the Shattuck Cinemas are not a cultural resource whose removal or replacement would result in a significant environmental impact. Please see also responses 52.8, 52.25 and 52.26.

Response 52.28

The commenter states additional reasons that, in his opinion, the alternatives studied in the Draft EIR would be undesirable. These comments are noted. Please see also responses 52.8, 52.25 and 52.26.

Response 52.29 and 52.30

The commenter restates the project objectives as listed in the Draft EIR in Section 2.5. The commenter goes on to opine that the Preservation Alternative is inconsistent with numerous project objectives and may be infeasible. Please note that pursuant to CEQA (Guidelines Section 15126.6), alternatives should meet most, not necessarily all, of the project objectives. Please see also responses 52.8, 52.25 and 52.26.

Response 52.31

The commenter states an opinion that the Preservation Alternative is inconsistent with a number of City policies and regulations related to active street frontages and building to the street wall. Please see responses 52.8, 52.25 and 52.26. The commenter also opines that the project’s proposed plaza meets the stated exceptions in the Downtown Design Guidelines related to maintaining a continuous zero-setback build-to line and that nearby historic buildings have plazas, and that therefore no impact in this regard should have been identified and Mitigation Measure CR-2(d) is unnecessary.
The Draft EIR HRTR preparer’s (ARG’s) primary guide in identifying impacts to historical resources is the Secretary of the Interior’s Standards. When those Standards conflict with local design guidelines, the Standards take precedence. Thus, from the perspective of identifying impacts to historical resources under CEQA, the question of whether the recessed entry plaza meets the Downtown Design Guidelines is essentially moot.

Mitigation Measure CR-2(d) in Section 4.1, Cultural Resources, specifies that the recessed entry plaza at the corner of Harold Way and Kittredge Street should be replaced with an entry design that maintains the zero lot-line setback. This measure derives from an understanding of the historic precedents in the area and a conclusion that an entry approach that maintains a zero-lot line setback would, unlike the proposed recessed entry, be compatible with the nearby historical resources and the larger Shattuck Avenue Commercial Corridor. None of the historic resources in the project vicinity has a recessed corner entry plaza that is similar in scale, materials or design to the proposed entry plaza. Mitigation Measure CR-2(d) is therefore necessary to bring the project into consistency with the Secretary of the Interior’s Standards.

Response 52.32

The commenter states that the Preservation Alternative would require two additional permits that the proposed project would not require, for a zero setback above 75 feet and increasing building width greater than 120 feet. This information is included in the Draft EIR on Page 5-3. The commenter states an opinion that this should be discussed as a “significant policy tradeoff” in the Draft EIR, but provides no specific reasons why these changes to the precise details of the regulatory path, in the context of an overall designed alternative offered for consideration/comparison with the project, would be significant and require additional discussion, or what that discussion should entail. No changes to the Draft EIR are warranted.

Response 52.33

The commenter states an opinion that it would be useful to decision makers for the EIR to specify DAP policies and regulations with which the Alternative is inconsistent, but does not state which policies or regulations that would be, other than those addressed in the responses above. Section 5.0, Alternatives, appropriately focuses primarily on environmental impacts of the alternatives that were identified as potentially significant for the proposed project in the Draft EIR. Consistent with CEQA Guidelines, the EIR discussions of policy consistency appropriately focus on applicable land use plans, policies or regulations “adopted for the purpose of avoiding or mitigating an environmental effect.” The commenter’s assertion that the Preservation Alternative would be inconsistent with DAP policies and regulations is noted and will be forwarded to the City’s decision makers for their consideration. No changes to the EIR are warranted.

Response 52.34

The commenter asks whether it would be possible for the existing Harold Way and Kittredge Street facades to be adjusted for the Preservation Alternative to meet both the DAP policies for street activation and the Secretary of the Interior’s Standards. Please see Response 52.32, above.
The commenter states an opinion that the Draft EIR Alternatives section should discuss impacts related to additional massing adjacent to the historic public library and the Shattuck Hotel, and discuss north-south view impacts, of the Preservation Alternative. Historic resources impacts of the Preservation Alternative are discussed in Section 5.2.1 of the Draft EIR, including impacts on adjacent historic buildings. As discussed there, impacts would be less than significant and mitigation measures CR-2(a-d) would not be required. A north-south view of the proposed project is simulated in Figure 30 of the Draft EIR in Appendix A, in the Infill Environmental Checklist. Additional photographs of existing north-south views are shown in the appendix to the Checklist (Viewshed Location Screening Analysis Worksheet) in photos 7, 8, and 11-14. As indicated there, a shifting of the building massing as contemplated in the Preservation Alternative would not significantly change the project’s visual impact nor significantly block scenic views from these locations. Please see also Response 52.8.

The commenter states opposition to the Contextual Design Alternative analyzed in the Draft EIR on the basis that it includes an interior plaza similar to that included in previous project designs but that received some unfavorable public comments. This comment on the merits of the Contextual Design Alternative, rather than on the analysis or conclusions of the Draft EIR, is noted and will be forwarded to the City’s decision makers for their consideration.

The commenter states opposition to the Contextual Design Alternative analyzed in the Draft EIR on the basis that it is not feasible because it eliminates the hotel service and access area, which is currently in the alley off of Allston Way, and must remain as such for practical reasons. This comment on the merits of the Contextual Design Alternative, rather than on the analysis or conclusions of the Draft EIR, is noted and will be forwarded to the City’s decision makers for their consideration. If the Contextual Design Alternative were to be selected as the preferred project, final design details could be adjusted to address practical concerns.

The commenter states opposition to Mitigation Measure CR-2(b) on the basis that the hyphen wall in question may not be perforated due to the proposed interior use as theaters. This comment is noted. However, the measure calls for “[p]erforations (such as a door or windows) or other architectural elements,” allowing for flexibility for the type of treatment; this would not necessarily preclude interior use for theater space. Thus no changes to the Draft EIR are warranted. If this comment was intended to refer to the Contextual Design Alternative (it is under that heading in the comment letter), it should be noted that Mitigation Measure CR-2(b) would not apply to that alternative, as noted on Page 5-23 of the Draft EIR.

The commenter states opposition to the Contextual Design Alternative on the basis that building width in portions above 120 feet would be over 120 feet on the diagonal horizontal
section, thus requiring a Use Permit, and that this width would be inconsistent with Design Guideline direction that tall buildings be limited in horizontal mass. The commenter also opines that this alternative would not meet project objectives, and points out an error in the text of the Draft EIR. Please see responses 52.25, 52.32, 52.29 and 52.30. In addition, the text in the Draft EIR on Page 5-21 has been revised as follows:

Unlike the proposed project, the Contextual Design Alternative would require a Use Permit for the portion of development above 120 feet.

Response 52.40

The commenter states an opinion that the Draft EIR must include some analysis on the potential impacts of placing additional massing closer to the historic Shattuck Hotel as part of the Contextual Design Alternative, and that potential north/south view issues should be discussed, as appropriate, with respect to the changed massing. Please see Response 52.35; the same discussion generally applies for the Contextual Design Alternative.

Response 52.41

The commenter states disagreement with the Draft EIR’s identification of the Preservation Alternative as the environmentally superior alternative, citing the project’s “urban design, community benefits, and transit orientation” and the alternative’s “reduction of residential density, community programming, pedestrian and transit enrichment, and revenue generation.” This comment is noted and will be forwarded to the City’s decision makers for their consideration. However, the commenter does not explain how the community benefits or transit or pedestrian orientation would be substantially reduced by the alternative, or how the potential incremental decrease in revenue generation relates to environmental impacts. The Preservation Alternative would also still include community programming and a relatively high residential density for Berkeley. The Preservation Alternative would avoid the proposed project’s one significant and unavoidable impact, which is the primary reason it was identified as the environmentally superior alternative.

Response 52.42

The commenter states further disagreement with the Draft EIR’s identification of the Preservation Alternative as the environmentally superior alternative, stating an opinion that the benefits of preserving portions of the Shattuck Hotel additions would be diminished because these resources are of limited historic significance. This opinion is noted. The commenter also reiterates the opinion expressed in Comment 52.41 that the proposed project is environmentally superior. Please see Response 52.41.

Response 52.43

The commenter states an opinion that the Preservation Alternative may present construction limitations that render the alternative financially infeasible, which is inconsistent with the project’s objectives. Please see responses 52.26, 52.29 and 52.30.
Response 52.44

The commenter essentially reiterates several of the comments addressed above. Please see responses 52.8 and 52.31 through 52.40.

Response 52.45

The commenter states an opinion that the massing orientation of the Preservation Alternative, which would reduce the Campanile Way view intrusion, is not worth the tradeoff of what the commenter believes are potentially more important design considerations. This comment is noted and will be forwarded to the City’s decision makers for their consideration. The commenter requests that the Draft EIR include more discussion of this trade-off in design goals. Please see responses 52.8 and 52.32.

Response 52.46

The commenter states an opinion that the Draft EIR references to “demolition” of the 1926 addition to the Shattuck Hotel should be changed to alteration, modification, or removal of the addition. Removal of the addition is the same as demolition of the addition, as the 1926 addition would need to be demolished to be removed. No changes to the EIR are warranted. However, it is noted for the record that the project does not involve a “demolition” as defined in Section 23F.04.010 of the City’s Zoning Ordinance (see Response 4.19 for further details).

Response 52.47

The commenter requests that the Infill Environmental Checklist be revised to specifically state that the project is not located in either of the two sensitive areas of the DAP described in the DAP summary on pages 59-60. Although the commenter is correct, no change is necessary, as the Checklist does not include incorrect statements on this point; it should be clear that the project is not in one of these areas as no further mention of them in relation to the proposed project follows.

Response 52.48

The commenter states an opinion that Page 86 of the Infill Checklist should note that the Bay Area Air Quality Management District (BAAQMD) initiated an update to the Bay Area Clean Air Plan (CAP) on April 14, 2014. The commenter correctly notes that the BAAQMD is in the process of updating the Clean Air Plan; however, the applicable CAP is the adopted 2010 CAP. The project’s consistency with the 2010 CAP is thus appropriately discussed in the Infill Environmental Checklist (Appendix A), and the project was determined to be consistent with the 2010 CAP.

Response 52.49

The commenter states an opinion that the Land Use and Planning section of the Infill Environmental Checklist should clarify that the potentially significant impacts that are being studied in the Infill EIR are potential cultural resources impacts, not land use impacts. The commenter is correct. However, as the Checklist language does not say they are land use impacts, but rather simply that they will be discussed in the EIR, which is accurate, these changes are not necessary.
Dear Aaron,

Please include the following comment on the proposed development project. Thank you for your service to the City and your help with this matter.

Gary

There is a global movement to rethink the urban environment being led by some of the Scandinavian countries. As usual, the USA is lagging behind in our thought process. Global warming is real and it will be our task in the coming century to rethink the way we live. We will need to make a global effort to heal the wounds of the last century of fossil-fuled destruction. Cities are the answer: yes, density can be good, but not at the expense of the way in which we interact with one another. Cities, and buildings within them need to be laid out to promote creative, peaceful constructive human interaction. We must forsake our love affair with automobile and learn to be happy, even happier with less. Smaller is better, less private space promotes more public interaction.

The proposed building, tho it incorporates within it many positive attributes, is counterproductive in height. Every current study comparing the height of buildings with the level to which they promote interpersonal interaction in public spaces for urban dwellers suggests that the optimum number of stories is SIX (6)!!! Anything higher, creates an environment in which people tend to cloister themselves within their private residence rather than interact in public spaces.

Berkeley has a traditional responsibility to lead the nation in forward thinking ideas: if it does not start here, more than likely, it aint gonna happen. Please, let us follow the lead of many other cities in Europe and in Brazil and lead our nation in setting our goals to encourage green, low carbon foot print, public-oriented housing in Berkeley.
Letter 53

COMMENTER: Gary Rosenberg

DATE: December 1, 2014

RESPONSE:

The commenter states an opinion, primarily based on theories of urban design for increased social interaction, that the proposed project is too tall. This comment does not question or challenge the analysis or conclusions of the Draft EIR, but will be forwarded to the City’s decision makers for their consideration.
Public Comments for the current open comment period

Re: The Harold Way Mixed-Use (including housing) Project before the City of Berkeley, the City’s Zoning Adjustment Board, its Planning Commission, the City Council, the Mayor, and staff. The Draft EIR being considered for said project.

Attention: Aaron Sage

Dear Sirs and Mesdames, and my fellow citizens of Berkeley,

(1) The Draft EIR for this project is a product of a conflict of interest.

The Draft EIR was prepared in response to a developer’s proposal that was prepared – or guided - or with the active participation of Mark Rhoades, the former City Planning Director of Berkeley who is now advising the developer. The Draft EIR was developed and is being received by City staff who were supervised - either directly or indirectly by Mr. Rhoades – and who may have been hired by Mr. Rhoades. Rhoades and his staff were central in formulating the Downtown Area Plan – the area planning document/decision that is defining for this project area. To avoid a conflict of interest, the Draft EIR preparation and review process must begin anew without any of the conflicted staff, board, commission, council members, or mayor. If necessary, the City must hire professional consultants with no links to Mr. Rhoades to create the draft EIR and to conduct the review process.

This applies to City Planning Commission and staff; Landmark Commission and Staff; Zoning Adjustment Board Commission and Staff; City Council and staff; and Mayor and staff – and anyone who I am missing who may be involved in both advocating for and approving this or similar projects.

---------------------------------------------

(2) This project DEIR has no significant or meaningful consideration of the horizontal dimensions of the tower portion of this project. It proposes – in a single “long wall” North-South tower, to exceed the entire north south dimension envisioned in 3 or 4 towers when the downtown area plan was formulated. In fact – to preserve the historic scale - no 180 foot towers should be approved.

The Downtown Area Plan – as presented as approved - reflects a subtle shift from the Downtown Area Plan debate. During that debate a finite (3 or 4) number of taller towers were discussed as "point towers" of very limited horizontal dimensions. Yet the current plan
document on the City’s website only requires that the horizontal dimensions “be considered”.
This draft EIR represents a further shaft [sic: Freudian slip - shift.]:

The Downtown Area Plan takes note of the rare circumstance that Berkeley is one of the few (or perhaps only) City of its size which retains an intact downtown of its scale and vintage. This project would literally blow that up. If the number of towers permitted by the planning document were accepted with the "tower print" of this project - a strip of well over 600 and perhaps as much as 1000 north-south linear feet of Berkeley’s downtown (and particularly Shattuck) would have significant blockages of views and shading or direct shadowing of streets.

This single project would use the sum total of 180 ft high horizontal blockage envisioned in the legislative debates conducted under Mr. Rhoades supervision as City Planning Director for all of the proposed towers - leaving none for any other future projects unless - the total horizontal area blocked is allowed to exceed that envisioned in the legislative debate by a factor of 3 to 8 or more (depending on how you count the number of possible towers under the plan and their maximum horizontal dimensions – as pitched by Mr. Rhoades’ retained consultant for the DAP – Matt Taecker – who is now advocating for a similar project).

On this ground alone, the project should be returned to the developer for revision – along with guidance from the City about the intention of the Berkeley citizenry – and our public servants – to preserve the downtown’s scale and vintage.

(3) At the very least the City should require a complete 3d model of the proposed project to be inserted in its own model of the downtown area, Berkeley, and the surrounding areas and view-sheds in Oakland, Albany, El Cerrito, and San Francisco.

The view-shed analysis and shadow analysis are woefully inadequate.

Reference is only made to a single view from the Campanile steps. Views in different directions are at issue – in some cases of the Golden Gate – in some cases of the East Bay Hills – and in some cases just views of a distant scenery or more of the sky. Reference is not made to views from and shading/shadowing of (not a complete list):

- The Campanile observation deck
- The geography department observation deck
- The Barrows Hall observation balcony
- The Eshelman Hall replacement observation balcony
- The Wurster Hall observation deck
- The Press/fund-raising box at the Cal stadium
- The Berkeley High School Library and other locations within Berkeley High School
• Shattuck Avenue (including views approaching from the North and South)
• Harold Way
• Kittredge and Allston
• Bancraft Way
• The I House
• The office tower of Boalt Hall
• San Francisco
• Any South-facing rooms at Berkeley City College
• The Civic Center Park
• Any South and East-Facing rooms/offices of the Berkeley City Hall
• The Berkeley City Council Chambers at the Old Berkeley City Hall
• The new San Francisco Bay Bridge
• Lower areas of the East Bay Hills directly to the East and to the Northwest and Southeast.
• A potential University hotel located on the site of the Bank of America Building
• The Civic Center Park
• The exercise rooms on the south-facing side of the Berkeley YMCA
• the two existing towers at the West corners of Center and Shattuck
• the "flatlands" to the west of the proposed project.

And so on.

Such a model should be based on reasonably accurate–ground topography and elevations and building heights extending out as far as the building project causes effects – especially considering the 2 to 3 hours before sunset and the 2 to 3 hours after sunrise. This modeling is necessary to enable City reviewers (including residents) to take virtual views of this project from all affected locations into account. Such modeling is available from .0001 to .001 of the cost of this project.

Thorough and animated viewshed and shadow analyses are available with current computing power and readily available planning and visualization software. The developer and the City Planning Department of Berkeley has or should have this software available and should have employed it to do thorough viewshed, shadowing models, virtual wind tunneling, and so on of all of the affected areas. There is no evidence of such analyses or tools in the present draft EIR. The draft EIR should include access for Council and City staff to real time modeling of the project in detail and surrounding buildings for historical consistency and mass as reasonably required. In addition to the one viewshed and potentially shadowed area discussed these should include the surrounding streets, Shattuck directly to the East of the project and points along Shattuck from up to some miles north and south of the project.

The Downtown Area Plan document mentions that downtown Berkeley is one of the few intact US downtowns of its scale surviving from the early 20th Century. While this was certainly violated by the tower formerly known as the Power Bar building; this currently proposed project - by itself, would be a more significant single disruption of that scale than the entirety of disruption envisioned by the
Downtown Area Plan (at least as it was discussed). It would most definitely “blow up” (hence destroy) the scale and vintage of downtown Berkeley. All by itself.

(4) This project as proposed – and the Draft EIR of it – does not adequately evaluate or respect the historic significance of the Shattuck Cinemas.

The project proposes to destroy them and replace them with fewer cinemas. We can debate what is likely to result. For a constructive example – we need only look at the Cinema (I believe it was called the “Fine Arts Cinema”) destroyed and replaced at the Southeast Corner of Haste and Shattuck. Have any of us been to a movie there since the cinema was “re-constructed”. To my knowledge – the only surviving element is a cynical marquee to nothing.

(5) All parcels affected by this project were not posted with notices of the review process.

Such a posting would require a broad publication of the proposal – posting on many well-used public facilities surrounding the project site, posting along the affected streets, and so on. It would be accompanied by a clear and easily accessible website, and mailings to all of the residents of the affected areas and employees and employers of the affected University, public, and commercial sites affected.

For the reasons stated above:

- The proposed project should be rejected as is.
- The Draft EIR should be referred to staff (probably consultants without conflict) for redrafting without conflicts of interest and due attention to thorough modeling of view and shading affects and due respect for the scale and vintage of downtown Berkeley. Proper posting and publication must take place.

Thank you for your consideration of the above comments, and – in advance – rejection of the current project submittal from the Developer and the flawed Draft EIR reviewing it.

I respectfully reserve the right to make further comments within this comment period and beyond – in my capacities as a citizen of Berkeley, a resident of the affected areas, and an urban design professional.

Sincerely Yours,

Bob Sarnoff

bobsarnoff@yahoo.com
Letter 54

COMMENTER:  Bob Sarnoff

DATE:  November 30, 2014

RESPONSE:

Response 54.1

The commenter states an opinion that the involvement of a former City staff member (Mark Rhoades) on the project applicant team constitutes a conflict of interest. The commenter requests that the Draft EIR preparation and review process begin anew without any of the “conflicted” staff, board, commission, council members, or mayor, and that the City hire professional consultants with no links to Mr. Rhoades to create the draft EIR and to conduct the review process. This comment is noted, but does not contain specific questions about or challenges to the information or analysis in the Draft EIR. It should be noted that the firm assisting with preparation of the EIR, Rincon Consultants, has no obligations or “links” to any member of the project applicant team (as implied by the commenter), other than the sharing of information related to EIR preparation, which was overseen by City staff.

Response 54.2

The commenter states an opinion that the proposed project’s horizontal dimensions are too great given the context of Berkeley’s Downtown. This comment on the merits of the project is noted and will be forwarded to the City’s decision makers for their consideration. The commenter does not specifically question or challenge the Draft EIR analysis or conclusions. Aesthetic impacts of the proposed project are discussed in detail in the Infill Environmental Checklist, found in Appendix A to the Draft EIR. Item I, Aesthetics, contains setting and policy background on this topic as well as a discussion of the project’s impacts. Project compatibility with nearby historic buildings is discussed also in Section 4.1, Cultural Resources. Impacts would be less than significant with mitigation.

Response 54.3

The commenter states an opinion that the view-shed and shadow analyses in the Draft EIR are inadequate, as project-related impacts on a multitude of views were not considered. The commenter’s list includes many viewpoints that are private views and many from which the proposed project would not be visible. As discussed in Topical Response A and Response 4.9, private view impacts pertain to aesthetics, and the aesthetic impacts of this project cannot be considered significant under CEQA. Nevertheless, the commenter’s concerns regarding this issue will be forwarded to the City’s decision makers for their consideration. As detailed in the Infill Environmental Checklist on Page 61, a photo documentation site reconnaissance tour of the project site vicinity was conducted to document current visual conditions and compare viewshed conditions to those analyzed in the DAP EIR. The photographic data was also used to determine which viewpoints warranted further analysis in photosimulations. Appendix A to the Checklist includes a catalogued list of the viewshed imagery recorded, and serves as a reference for viewshed impact discussions analyzed in the Checklist. Of the locations identified
in the Downtown Design Guidelines as “important vistas,” three would be affected by the proposed project, and are generally captured in the Checklist photosimulations: the Allston Way corridor, Kittredge Street, and the north and south termination of Harold Way. Other viewpoints, including those listed by the commenter, such as those of the Berkeley Hills or the San Francisco Bay, would not be likely to experience significant blockage of views as a result of the project. As stated in CEQA Guidelines Section 15151, “An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.” Photosimulations from viewpoints that are likely not significantly affected by the project are not necessary for a reasonable, good-faith disclosure of project impacts as required by CEQA.

The commenter specifically requests visual simulations from Shattuck Avenue and other streets surrounding the project site; please see figures 28 through 30 of the Infill Environmental Checklist (Appendix A to the Draft EIR) for simulations from such viewpoints.

It should also be noted that although aesthetic impacts are discussed in the Draft EIR (in Appendix A), as required by California State law (Senate Bill 743, 2013, which says that aesthetic impacts of a mixed-use project on an infill site within a transit priority area may not be considered significant impacts on the environment), such impacts cannot be considered significant on aesthetic grounds alone. Impacts to historic resources resulting from the project’s scale and design may be considered significant, however. The commenter did not identify any views that are currently designated as historical resources on the local, state or national register. None of the views identified by the commenter are known to meet the criteria of historical resources for purposes of CEQA. As a result, Section 4.1, Cultural Resources, of the Draft EIR did not describe how views to and/or from these vantage points would be changed by the proposed project because no impact to historical resources would occur.

Finally, the commenter opines that the proposed project would be a “more significant single disruption of” Downtown Berkeley’s scale “than the entirety of disruption envisioned by the Downtown Area Plan (at least as it was discussed).” It is unclear what the basis of this opinion is, as the DAP and the DAP EIR contemplated several buildings of the proposed scale potentially being constructed in Downtown Berkeley over the life of the plan. Nevertheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response 54.4

The commenter states an opinion that the Draft EIR does not adequately evaluate or respect the historic significance of the Shattuck Cinemas. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response 54.5

The commenter states opinions that all parcels affected by the proposed project were not posted with notices of the review process; that such a posting would require a broad publication of the proposal, including posting in numerous locations in the neighborhood; and that it should be accompanied by a clear and easily accessible website and mailings to all of the residents of the affected areas and employees and employers of the affected University, public, and commercial sites affected. This comment is noted. Please see Section 1.2, Environmental Review Process,
above for a description of the Draft EIR notification process and schedule, which exceeded City and state requirements for CEQA notification and included posting on and off site and mailings to surrounding properties. Project information and the Draft EIR have been and continue to be easily accessible on the City’s website. Finally, the commenter reiterates opposition to the project and his request that the Draft EIR be redrafted. These comments are noted and will be forwarded to the City’s decision makers for their consideration.
Dear Mr. Sage, I would like to share my opinion of the proposed building that is proposed to be built where stands the Shattuck Cinemas at Habitot at 2211 Harold. I am against the building of the condo/apartments, (no low income housing available there). Please reconsider this proposed undertaking. Thank you. Ariella Seidenberg
Letter 55

COMMENTER: Ariella Seidenberg

DATE: November 29, 2014

RESPONSE:

Response 55.1

The commenter states opposition to the project and that “no low income housing [is] available there.” The commenter’s opposition is noted and will be forwarded to the City’s decision makers for their consideration.

There is no low-income housing currently on the project site. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units).
To: ZAB Commissioners
From: Judy Shelton, Committee to Save the Shattuck Landmark Theater
Re: The Harold Way EIR

Dear Commissioners:

Berkeley citizens don’t want you to sanction the demolition of the Shattuck Landmark. Even if we believed that a new Landmark would be built, we want to keep the one we have.

Because what do we, the people, have to gain from demolishing this prized cultural resource? What does the Landmark itself have to gain?

I can think of many things we would lose:
• The City would lose a source of original and provocative films.
• The City would lose the only completely wheel-chair-accessible theater in Berkeley.
• The Landmark would lose business (more on this point below).
• The Landmark’s employees would lose their jobs.

Oh, but only temporarily, the developer tells us -- well, the jobs are lost for good, but never mind that -- what matters is that they’ll rebuild the theater into the new structure.

No, they will not. They have no legal mandate to build a new theater, and developers almost never do anything they don’t have to do. If this developer meant to build a new theater, the EIR before you tonight would stipulate that, and the plans would read “theater” rather than “possible theater”.

Remember the Fine Arts? We do. We were assured of a new theater then, too. What we got was a lovely marquee on the finished building that says “Fine Arts”. It is the ironic, not to mention cynical, reminder of a broken promise.

But back to the present project, and the Landmark’s situation: Let’s speculate that the Landmark is okay with leaving because business could be better and they were thinking of closing anyway.
If true, that does not get the City off the hook. The City should help this valuable cultural institution – **one which low-income residents can still afford** – to stay afloat. They should require the developer to pay whatever the Landmark needs to stay open. They can certainly afford that, as they prepare to cram another huge, lucrative apartment complex into our crowded downtown.

There is no justification for destroying this great cultural asset, and no benefit to the City. So who DOES benefit? Only the developer and builders, and the politicians who take their campaign contributions. We, the people, lose.

Don’t approve the Harold Way EIR until it includes the legally binding provision that the Shattuck Landmark be preserved, just as it is.
Letter 56

COMMENTER: Judy Shelton, Committee to Save the Shattuck Landmark

DATE: N.D.

RESPONSE:

Response 56.1

The commenter states opposition to the demolition of the Shattuck Cinemas, citing the loss of “a source of original and provocative films,” “the only completely wheel-chair-accessible theater in Berkeley,” that the Landmark would lose business, and that the Landmark’s employees would lose their jobs. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration. New theaters as proposed would be required to meet all requirements of the Americans with Disabilities Act (ADA) regarding wheelchair accessibility.

Response 56.2

The commenter states an opinion that the proposed replacement theaters would actually not be built if the project is approved. The commenter further requests that the City require the developer to pay the Landmark Theater to enable it to stay open. Although not pertinent directly to the Draft EIR analysis of conclusions, these comments are noted and this topic is addressed in Topical Response D, Demolition of the Shattuck Cinemas.
November 16, 2014

To: Planning Dept.

Fr: Judy Shelton
Committee to Save the Shattuck Landmark Theater

Re: 2211 Harold Way

I would like to make four main points about the Harold Way Project:

1) The people of Berkeley consider this theater a cultural treasure, and don't want it to be demolished. It's a source of independent films which explore topics that either aren't covered in mainstream theaters, or which are sometimes covered but in less complex and intellectually challenging ways. We want to preserve this theater, and ask that the developer build around it.

2) The developer is promising a replacement theater, but nothing legally binds him to this promise. Years ago, before they tore down the Fine Arts -- a wonderful and quirky art house -- that developer also promised us a replacement theater, but never followed through. If you disregard our wishes about the existing Landmark and tear it down anyway, at least require the developer to sign a legally-binding contract with Landmark stipulating that: a) they will definitely (not “possibly”) build a new theater complex; b) that this complex will face, and be entered on, the Shattuck side of the new building; and c) that the new Landmark won’t be charged higher rent than they are now paying.

3) Even if the developer does build another theater with the above provisos, it will take years to complete, and meanwhile we are without this high-caliber, multi-screen, wheel-chair-accessible venue – the only one in Berkeley that shows the films of local, independent filmmakers.

4) Berkeley citizens are insufficiently aware that you intend to destroy the Landmark. We need a better process than the one currently used to announce projects like this. Moreover, the vote to approve Measure R does not signify voter approval (or even knowledge about) the Harold Way project. It signifies that the “Yes on R” campaign was misleading and confusing. So please don’t use the Measure R vote, as did one Zoning Board commissioner, to validate claims of citizen support.
In the end, we are left with these questions: WHY do the developers have to
demolish the Shattuck Landmark Theater in the first place? WHY is the City
of Berkeley so indifferent to the destruction (or in the most benign scenario, the
long disruption) of our cultural life? And WHY, if the City cares so much
about Berkeley businesses, is it so cavalier about the many businesses that will
be ruined because of this construction project?

The chair of the Zoning Board, in an almost off-hand comment at last week's
meeting, accurately pinpointed the central irony of development in Berkeley.
He said that he hopes, in creating projects to attract more people to Berkeley,
that the developers aren't destroying the very things which attract these people
to Berkeley in the first place.

Yet that is, in fact, precisely what the developers are doing. Why is this not
important -- or even recognized?

Judy Shelton
Commissioner, Berkeley Rent Board.
Letter 57

COMMENTER: Judy Shelton, Commissioner, Berkeley Rent Board

DATE: November 16, 2014

RESPONSE:

Response 57.1

The commenter states an opinion that the people of Berkeley consider the Shattuck Cinemas a cultural treasure, and don’t want it to be demolished. This opinion is noted. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment and additional information on this topic.

Response 57.2

The commenter requests that the City, if approving the project, require the developer to sign a legally-binding contract with Landmark Theaters stipulating that they will build a new theater complex, that the complex will face, and be entered on, the Shattuck Avenue side of the new building; and that the Landmark Theaters will not be charged higher rent than they are now paying. This request does not challenge of conflict with the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. It should be noted that, as discussed in the Draft EIR in Section 2.0, Project Description, the new building would not front on Shattuck Avenue, and that the proposed replacement theaters would be entered in the same place and under the same marquee as currently exists.

Response 57.3

The commenter notes that replacement theaters for the Shattuck Cinemas would take years to complete, if the project is approved. The commenter is correct; as noted in the Draft EIR in Section 2.0, Project Description, project construction would take approximately two years.

Response 57.4

The commenter states opinions about Measure R and citizen support, or lack of it, for the project. These comments do not pertain to the environmental analysis, but are noted and will be forwarded to the City’s decision makers for their consideration. The commenter also states an opinion that the City should have “a better process than the one currently used to announce projects like this,” but does not provide specific suggestions for how the process should be improved. Please see Section 1.2, Environmental Review Process, above for a description of the Draft EIR notification process and schedule, which exceeded City and state requirements for CEQA notification.

Response 57.5

The commenter asks why the applicant proposes the project. This comment does not pertain to the environmental analysis. The commenter also appears to state opinions that the City is
indifferent to the destruction or disruption of Berkeley’s cultural life and is “cavalier” about the proposed project’s economic affects on existing businesses.

These comments pertain to the applicant’s motives for and the potential economic effects of the project; neither of these topics is within the range of impacts studied pursuant to CEQA, but these comments are noted and will be forwarded to the City’s decision makers for their consideration. Regarding cultural resources, although the commenter does not provide specifics on which to base a specific response, please see Section 4.1, Cultural Resources, of the Draft EIR and the topical responses at the beginning of these responses to comments. The Draft EIR identifies several impacts to cultural resources which range in impact level from less than significant to significant and unavoidable.
From: varyahsimpson@gmail.com [mailto:varyahsimpson@gmail.com] On Behalf Of Varya Simpson  
Sent: Monday, December 01, 2014 12:40 PM  
To: Sage, Aaron E.  
Subject: Zoning Re: Shattuck Cinemas  

Please turn down any zoning request which would require the closing of the Shattuck Cinemas. Berkeley is known as a center for independent cinema. The Shattuck Cinemas is the well-known source for presenting independent cinema as well as mainstream releases. If the Shattuck Cinemas is closed, the character of downtown Berkeley will be irrevocably changed. Thank you.

Varya Simpson  
Berkeley Resident
COMMENTS:

Varya Simpson, Berkeley Resident

DATE: December 1, 2014

RESPONSE:

The commenter states opposition to the proposed project, specifically the closing (or, presumably, the replacement) of the Shattuck Cinemas. This comment, which pertains to the merits of the project rather than to the Draft EIR, is noted and will be forwarded to the City’s decision makers for their consideration. Please see Topical Response D, Demolition of the Shattuck Cinemas, for additional information on this topic.
Dear Aaron:

I am writing to express my concerns and criticisms over the handling of the Harold St. project. It has been sometime since I served as an alternate on the NPO Commission, but I do try to keep up with street postings, and I must say that the whole process to date is severely flawed, both in regards to notification and the very brief amount of time allotted for actual collaborative input from the public: woefully inadequate for a project of this scope which will have such a profound effect on the cultural milieu and the cityscape of our town.

The postings that were put up over the summer were somewhat (and I hope not purposely) deceptive in that they showed the area encompassing the current Shattuck Hotel and Landmark Cinemas with grey hatching on the site plan, giving the impression that these two areas were not included in the project. Additionally, much of the "spin" and phraseology is not consistent with the facts.

Both the Shattuck Hotel and the 1926 Hink’s Annex enjoy and are protected by landmark status as the official plaque at the entrance to the hotel makes clear. At the time of the renovation by Landmark Theatres, the hand-crafted stucco ceiling was specifically protected, as a work of artistic merit. It was also specified that it remain in situ: to do otherwise or even to entertain some of the options suggested by the developer in section ES4.5 of the Executive Summary (e.g. selling or junking it) would make a mockery of the word “preservation”. Neither is the theatre marquee “dilapidated” as the developer would have us believe. All such fixtures require routine maintenance, but the marquee is not in noticeably worse shape than any of the other signage on Shattuck Avenue of similar vintage.

In addition, I strongly object to the planned destruction and “gutting” of what is one of the premier architectural and cultural assets in downtown Berkeley: the Landmark Theatre Complex. The time thus far allotted for public discussion, input and approval has been severely truncated and shifted to a time period that all but guarantees minimal public participation. The complex, since its installation at the former Hink’s store, has become a vibrant and greatly valued cultural resource for the Berkeley community and the East Bay at large. The arcade and surrounding businesses and cafes offer a well integrated zone for patrons to congregate and meet each other before and after shows and otherwise mingle and socialize. The viewing experience at the complex is further enhanced by the fact that several of the theater interiors have been renovated to imitate the grandeur of the movie palaces of the 1920’s with painted stucco recreations of Persian gardens and Egyptian temples, etc. These exquisitely rendered renderings are the work...
of a resident Berkeley artist, Eddie Monroe, who along with Osha Neumann, is one of our foremost and most well-known local muralists. To wait for a program to begin in such surroundings is a much different and infinitely more pleasant experience than would be the case in some basement cubicle, and these works of art need to be preserved and protected in the same way as the arcade ceiling.

Even though “aesthetics” is clearly mentioned in the Executive Summary, I was told in passing that such remarks could not be included in this document. I will not involve myself here with the patent absurdity of such a statement regarding a public building which will dominate the main street for many years to come, but will still make the following observations. When I examined the rendering of the project now posted in the window at the gallery entrance, I can well understand why no rendering was put at the time of the initial postings: it is an architectural grotesquerie! The brick work on the façade may work in some trendy industrial-chic context, but is totally alien to the aesthetic of a building of its period, and clashes violently with the rusticated Renaissance/Baroque detailing of the hotel entry. The corner pillar thingy is quite atrocious, and certainly in no way a replacement for the cozy Gemütlichkeit of the existing arcade, which also provides protection from the elements.

In short, the current complex serves a valuable civic function for our community and is worth preserving in its entirety: it is definitely not broken and has no need of fixing! Whatever plans the developer puts forward must include complete encasing within the new structure as has been done with many landmarks in San Francisco.

Yours truly,

Richard W. Spaid
2550 Ellsworth
Berkeley, CA 94704
Letter 59

COMMENTER: Richard W. Spaid

DATE: November 30, 2014

RESPONSE:

Response 59.1

The commenter states an opinion that the posted notices for the proposed project were misleading, and further opines that the public notification process was flawed and that the time allotted for public input was too brief.

The commenter’s opinions about the posted notices are acknowledged. It should be noted that the posters are intended to convey a general sense of the project, rather than as full project plans. The City expects interested parties to review the plans on line or at City offices, as suggested in the posters, for further and more specific project information. The commenter implies that the posters were not accurate in depicting the project area. The main body of the historic Shattuck Hotel building fronting Shattuck Avenue and Allston Way, including the marquee and main entrance to the Shattuck Cinemas, is indeed excluded from the proposed project. As discussed in the Draft EIR in Section 2.0, Project Description, work within these areas would be limited as follows:

Proposed changes to the retail strip and basement under the Shattuck Hotel (which is not owned by the project proponent), include the creation of a new cinema lobby on the ground floor and adding two theaters in the basement. There would be three major components to the associated structural work:

1. Frame out a new 20’ by 20’ opening in the ground floor to create a two story lobby. This would require new steel beams and girders.
2. Lower the basement floor by six feet to create the head-room necessary for the two new theaters. This would require the removal of the basement slab, soil excavation, and construction of new footings, retaining walls, and floor in the areas where the new theaters will be located.
3. Seismically strengthen the area affected by the new construction and the retail strip under the Shattuck Hotel. This would require the addition of four concrete shear walls that would extend from the basement to the underside of the second floor. This work would not seismically strengthen the entire building, but only the area directly affected by the new construction. This structural work would not be visible from the exterior of the building. It should be noted that the proposed new building’s foundation system would be integrated with and would complement the existing Shattuck Hotel foundation system where it may come in contact.
4. No other changes are proposed to the Shattuck Hotel building. The theater space, which is primarily located behind the main Shattuck Hotel building in the 1913 and 1926 additions to the Shattuck Hotel, would be demolished.

The posters for the project were installed in late 2013, and the Draft EIR was published in October of 2014. Public hearings on the project are tentatively scheduled for late winter or early spring of 2015. Thus public notification of the project was first given approximately one year before the Draft EIR was published, and several additional months before public hearings on the project. Please see Section 1.2, Environmental Review Process, above for a description of the Draft EIR notification process and schedule, which exceeded City and state requirements for CEQA notification. Finally, as discussed in the Draft EIR, the DAP and DAP EIR, along with the extensive public process around those documents, contemplated the potential for a building of similar or greater height on the project site in 2012 and earlier.

Response 59.2

The commenter states an opinion that at the time of its installation the Shattuck Cinemas’ “hand-crafted stucco ceiling was specifically protected, as a work of artistic merit” and that it “was also specified that it remain in situ.” The commenter does not state by whom or under what mechanism he believes this feature is protected; the stucco ceiling is not in itself a recorded historic landmark or otherwise formally protected feature. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a discussion of this topic. In addition please note that Mitigation Measure CR-1(b) in the Final EIR requires preservation or re-use of these features on site if feasible and salvage off site if not.

The commenter also states an opinion that the marquee is not dilapidated. This opinion is noted, but does not conflict with the Draft EIR; the Draft EIR does not describe the marquee as dilapidated.

Response 59.3

The commenter describes the Landmark Theater and the experience of seeing a movie there, and states opposition to the demolition of the theaters and requests that the interiors be preserved. These comments are noted. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a discussion of this topic.

Response 59.4

The commenter states that he “was told in passing” that comments on the topic of aesthetics could not be included in the EIR, and he states that this is “patently absurd”. The commenter then provides opinions on the architectural design of the proposed project. The commenter may be referring to the fact that, as explained in several places in the Draft EIR, as required by California State law (Senate Bill 743, 2013, which says that aesthetic impacts of a mixed-use project on an infill site within a transit priority area may not be considered significant impacts on the environment), impacts cannot be considered significant on aesthetic grounds alone. Notwithstanding the provisions of Senate Bill 743, the aesthetic impacts of the proposed project...
are discussed in detail for informational purposes in the Infill Environmental Checklist, found in Appendix A to the Draft EIR. Item I, *Aesthetics*, contains setting and policy background on this topic as well as a discussion of the potential project’s impacts. Furthermore, Senate Bill 743 does not bar members of the public from providing comments related to aesthetics, or relieve lead agencies from responding to such comments. Although not specifically pertaining to the content of the Draft EIR, these comments will be forwarded to the City’s decision makers for their consideration.

Response 59.5

The commenter appears to state opposition to the proposed project. This opposition is noted. The commenter also requests that a proposed project on the site, if approved, “must include complete encasing [of the existing building] within the new structure.” Please note that Alternative 2, the Preservation Alternative, as analyzed in Section 5.0 *Alternatives*, involves retaining the facades of the 1913 and 1926 Shattuck Hotel additions that front Kittredge Street and Harold Way.
From: Richard Tamm <richard.tamm@gmail.com>  
Date: November 30, 2014 at 8:53:34 PM PST  
To: "Aaron Sage, Senior Planner" <asage@cityofberkeley.info>  
Subject: Please Stop the 2211 Harold Way Development Plan

Please do not allow this project at 2211 Harold Way to go ahead as is.

This 2211 Harold Way "Community Benefits Package" is of no benefit to the current inhabitants of Berkeley.

It will not benefit my wife Sharon and me, long-time residents of Berkeley. We own our own home at 1015 Shattuck Avenue in north Berkeley. We've lived here for approximately 24 years.

We find the downtown of Berkeley to be of just the right size as it is right now.

I would find an 18-story building a terrible blight on the area and oppressively beyond the height of all other buildings.

I love the Shattuck cinemas and the movies they now show. I think it would be a terrible loss to lose them - a real loss for the whole community. These theaters are the only ones to show many movies that aren't shown anywhere else. They would not be able to afford the definitely higher rates the new owners would charge.

The huge increase in high-priced condos and apartments will also not benefit me nor just about anyone I know in Berkeley except for a few real-estate agents and fellow developers.

Will there be any real increase in affordable housing because of this project, or merely lip-service for such?

What about increased stress on parking? What about darkening from the shadow of such a huge building? What about the blocking of views of the golden gate and the bay by such a monstrously tall building?

I am amazed that you are even seriously considering going ahead with such a project. It is such an extreme leap from the current building heights of surrounding buildings.

Please reconsider and do not allow this project to go ahead.

Yours truly,  
Richard Tamm

--  
Richard Tamm  
Co-Chair of The Voting Rights Task Force  
Treasurer of the Wellstone Democratic Renewal Club  
510-524-4608  
1015 Shattuck Avenue, Berkeley, CA 94707
Letter 60

COMMENTER: Richard Tamm, Co-Chair of The Voting Rights Task Force, Treasurer of the Wellstone Democratic Renewal Club

DATE: November 30, 2014

RESPONSE:

Response 60.1

The commenter states an opinion that the proposed project will not benefit Berkeley residents and expresses opposition to development in Downtown Berkeley. Although they do not pertain directly to the analysis or conclusions of the Draft EIR, these comments on the project will be forwarded to the City’s decision makers for their consideration.

Response 60.2

The commenter states opposition to the size of the proposed building in relation to other buildings. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a discussion of this topic.

Response 60.3

The project expresses concern over the proposed removal of the Shattuck Cinemas. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a discussion of this topic.

Response 60.4

The commenter asks about the affordable housing component of the project. As discussed in Section 2.0, Project Description, of the Draft EIR, the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units).

Response 60.5

The commenter expresses concerns about “increased stress on parking.” The proposed project would provide 171 vehicle parking spaces, which exceeds the minimum requirements of the City’s Zoning Ordinance by 38 spaces. The City’s minimum parking requirements are intended to meet projects’ parking demand and prevent adverse impacts on the Downtown’s parking supply. Pursuant to CEQA Guidelines Appendix N and the City’s standard approach to defining significant environmental impacts under CEQA, increased parking demand, in and of itself, is not a topic of required environmental analysis under CEQA. Nevertheless, as with all of these comments, this concern will be forwarded to the City’s decision makers for their consideration.
Response 60.6

The commenter asks about the extent of potential shadow impacts. Shadow impacts are discussed on Page 77 of the Infill Environmental Checklist (Appendix A to the Draft EIR). Impacts would be similar to those disclosed in the certified Downtown Area Plan EIR and would be less than significant. As discussed there and shown in figures 32 and 33, project-related shading impacts would not occur to the Crescent, Civic Center Park, or other public open spaces, other than streets and sidewalks, 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. Therefore, the project would not adversely affect public open spaces with shading. The issue of solar access for neighboring structures is a related land use issue. The modeling confirms that there would be no impacts to neighboring structures wherein access to solar rays for energy production via photovoltaic arrays would be precluded in a substantial way. Although shading would incrementally increase, impacts would be less than significant.

Response 60.7

The commenter asks about impacts to westward views toward the bay. Please see Draft EIR Section 4.1, Cultural Resources; Infill Environmental Checklist Item I, Aesthetics; and Topical Response B, Impacts to the Westward View from Campanile Way, for discussions on this topic.

Response 60.8

The commenter reiterates his concern with the proposed building height (see Response 60.2), and requests that the project be denied. This comment is noted and will be forwarded to the City’s decision makers for their consideration.
From: "Steve Thorne" <steve@thornearchitect.com>
To: "Sage, Aaron E." <ASage@ci.berkeley.ca.us>
Subject: 2211 Harold Way

Dear Aaron.

I am the project architect for a group of alumni who have proposed a gift-funded comprehensive renovation of Campanile Way. This is a major renovation that also includes major landscape changes. When completed, the view to the west will be significantly more open than it is now and, accordingly, the negative impact that the proposed building at 2211 Harold Way will have on this space is not accurately reflected in the Draft EIR. Their proposed 18-story structure will tower over the western skyline and irreparably harm one of the longest enjoyed most frequented vistas in the City.

Our objections are summarizing in the attached letter. The proposed encroachment into this prime view may seem trivial to those not familiar with the historical significance of this space or to those who have never witnessed the impact it has on the tens of thousands of Berkeley visitors who annually stand and admire it. But I do expect that its significance will be understood by your department and that you and your staff will work to preserve it.

Sincerely,

Steve Thorne

Thorne Architect | 1400 Shattuck Ave | Suite 2 | Berkeley | 94709 | 510-704-0132
Re: Proposed Building at 2211 Harold Way

Dear Mr. Sage;

I am the project architect for a group of alumni who have proposed a gift-funded comprehensive renovation of Campanile Way. The summary statement from our project submittal reads:

*The purpose of this endeavor is to renovate Campanile Way - to restore the classical beauty that lies at the historic core of campus while simultaneously providing a place where the University’s past and future academic achievements may be celebrated.*

In a style consistent with the original classical vocabulary established by John Galen Howard, our proposal provides for the complete replacement of the paved surfaces to brick and granite; a full renovation of the landscaping; a monument to our namesake philosopher George Berkeley; celebratory elements recognizing the academic achievements of the faculty and, just west of the Campanile contiguous to the Bancroft Library, a *historical court* that will teach the origins of the campus and the community. This sunny corridor will include many new benches and seating oriented to maximize the stunning views available west to the bay and the Golden Gate.

We have received preliminary support for the project and are currently working with the *Campus Landscape Architect* and the *Capital Projects* team on its development. Our intention is to commence construction in 2016 and finish prior to activities commemorating the 150th anniversary of the University’s charter in 2018. When completed, this renovated corridor will serve as the central hub for students, faculty, staff and the tens of thousands of guests who will frequent the University and the City of Berkeley annually over the next 100 years.

Yet we recently learned of the proposed building at 2211 Harold way and are extremely concerned about it for this 18-story structure will tower over the western skyline and will irreparably harm one the longest enjoyed most frequented vistas in the City.

This is particularly significant because our proposed renovation includes landscape changes that will open up the view to the west consistent with Howard’s original vision. The Draft EIR submitted for the building at Harold Way does not reflect the significant negative impact the proposed building will have on that restored view. The *Visual Simulation* submitted with the Draft EIR is included here as Figure 1 below, but a more realistic *Simulation* with the trees cropped is shown in Figure 2. I do not believe many would agree with the D-EIR impact statement:

*‘Partially obscuring views of the Golden Gate and Alcatraz Island from the base of the UC Berkeley Campanile and Campanile Way within the Classical Core of the Campus would be less than significant.’*
Fig. 1: Visual Simulation from the Draft EIR

Fig. 2: impact after trees are cropped.
The Simulation in Figure 2 above does not show the more extensive changes we have planned for Campanile Way which are based on recommendations from the campus planning studies including the Long Range Development Plan, the New Century Plan, the Landscape Heritage Plan, and the Landscape Master Plan, wherein, for example it states:

‘The basis for the campus plan is the historical Beaux-Arts frame, initiated by the Hearst-Howard plan of 1914’ and recommends efforts be made to ‘preserve and enhance important distant views, the Beaux-Arts axes and spatial compositions.’

Architects and city planners learned from the Firestorm of 1991 that building height and massing needs to work independent of the landscaping - for landscaping is always a tenuous aesthetic fix. And particularly so in this case, for the proposed building at Harold Way have an even greater negative impact if a fire were to eliminate any of the other corridor trees.

A separate issue not addressed in the Draft-EIR, but one equally significant, is the negative impact the proposed building will have on Campanile Way at night. This site is a frequent destination for evening visitors from all over Berkeley who seek to sit with the Campanile as their backdrop and take in the distance lights across the bay juxtaposed with the moon, the stars and an occasional planet. It is a contemplative view that has inspired many over the last century and a half. If the proposed building is allowed to proceed, this view with have 18 stories of candlepower glowing in the foreground; finding and enjoying the lights of Alcatraz, of San Francisco, or of the Golden Gate will be analogous to trying to star gaze while looking into a searchlight. The loss of that night view would be irreplaceable and, quite frankly, reprehensible.
Let us not forget that the view we speak of as being harmed is the western anchor of the axis that serves as the architectural basis for the entire University. And let us not forget that the view we speak of as being harmed is the view which inspired the naming of the both our university and our community Berkeley. When the philosopher George Berkeley penned the words ‘Westward the course of civilization’ he was envisioning the advancement of art and education in the west not developer avarice.

A view such as this is indeed a cultural resource but a very vulnerable one. And just like oil or precious metals, once that resource has been mined it is gone forever. At the height of 190 feet, the looming building at 2211 Harold Way will mine that view for the consumption and financial gain of the few at the expense and sacrifice of the many.

All great cities depend on the expertise of their planning departments to identify those elements that make their particular city unique and memorable – and those planning skills must be devoted to preserving those elements in such a way that their survival is assured and their future enjoyment is made accessible to all. Berkeley is one such great city, and the stunning beaux-arts view that has inspired 150 years of visitors is one such element worth preserving. It may be located within the confines of the University, but that view is a City resource and it is now up to your offices to preserve it.

With all due respect, I therefore plead that you deny the request for design approval of the building at 2211 Harold Way and establish criteria preventing any such obstruction in the future.

Sincerely,

Steve Thorne
Licensed Architect, C-23912
1400 Shattuck Ave. Suite 2, Berkeley, California 94709  (510) 704-0132

WWW.THEBERKELEYMONUMENT.ORG
Letter 61

COMMENTER: Steve Thorne, Thorne Architect

DATE: November 28, 2014

RESPONSE:

Response 61.1

The commenter introduces himself and summarizes the content of the main body of the letter; responses to the specific comments introduced here are included in responses 6.2 through 6.7.

Response 61.2

The commenter states that he is the project architect for a group of alumni who have proposed a “major renovation” of Campanile Way that would include removing trees that are within the view corridor towards the San Francisco Bay from Campanile Way west of the Campanile. The commenter’s letter also includes day and night simulations of the proposed project as seen from the base of the Campanile after the referenced proposed “renovation” project; in the simulations, a greater portion of the proposed project would be visible than would be under current conditions, i.e. without tree removal. This is because the proposed tree removal appears to affect the trees that would block the remainder of the proposed project almost exclusively. Accordingly, the commenter goes on to state that the impact to the view from the Campanile would be significantly greater than described in the Draft EIR. The commenter also states facts and opinions regarding the history of the UC Berkeley campus and the historic, cultural and aesthetic significance of the westward view from Campanile Way, and expresses opposition to the project’s impacts to this view both during the day and night. Please see Topical Response B, Impacts to the Westward View from Campanile Way, for responses to these comments.

The term “baseline” in the context of CEQA generally refers to the time and the conditions that are used as the point of comparison with proposed future conditions of a project for determining the significance of a project’s environmental impacts. As stated in the state’s CEQA Guidelines in Section 15125(a), normal CEQA baseline consists of “the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced...This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” Therefore, the City properly evaluates project impacts, including the change to the view from Campanile Way, based on existing conditions at the time the NOP was published and the photographs taken for the EIR photosimulations (May 2014 and February 2014, respectively), which include the trees in their current condition. Specifically regarding the proposed tree removal referenced by the commenter, and visual simulations prepared by the commenter, no such plan has been adopted or is in undergoing formal consideration by the University of California, so any reliance in the EIR analysis on its potential implementation would be speculative. CEQA discourages speculation in assessment of potential environmental impacts. According to UC Berkeley staff, the proposed “renovation” project described by the commenter does not have formal standing.
as a campus project (as of the time of this writing) (Jennifer McDougall, Principal Planner, UC Berkeley Capital Projects, personal communication 12/22/2014).

The historical and background information presented by the commenter does not include significant information that is missing from or in conflict with the HRTR or Draft EIR.

Response 61.3

The commenter expresses opinions about the importance of the Campanile Way view and concerns about the proposed project’s impacts on the view. The commenter does not offer specific comments challenging the Draft EIR analysis or conclusions; however, these comments will be forwarded to the City’s decision makers for their consideration.

Response 61.4

The commenter requests that the project be denied and that the City establish criteria preventing similar view impacts in the future. This comment does not pertain to the Draft EIR but will be forwarded to the City’s decision makers for their consideration.
To: Aaron Sage, Sr. Planner  
Land Use Planning Division  
2120 Milvia, Berkeley, CA 94704

From: Dennis Walton  
1636 Channing Way  
Berkeley, CA 94703

RE: the Draft EIR for the proposed project at 2211 Harold Way

1. A principal for this proposed is to provide needed transit-oriented housing. Yes, in a way; as corporations transition their headquarters or other operations from San Francisco to Berkeley, there may indeed be a need for more housing units here. Otherwise, the City of Berkeley has no obligation to serve as a “bedroom” for people who work in San Francisco.

2. The balconies of this project could serve as platforms for the spread of smoke and toxic fumes from portable barbeque or grilling units. Please identify the potential health risks—both immediate and long-term—to residents, workers, students, library patrons, shoppers and other visitors to areas around 2211 Harold Way. Please identify the geographical scope of possible risk-inducing smoke & toxic fumes dispersion from the proposed balconies at this site. Please identify the means in which these potential health risks could be eliminated, noting that enforcement by the City or any private regulation would be outside the policing power of the municipality.

3. The socio-physical environment of study, analysis & learning generated by the Berkeley Public Library (4th Central Library), Dharma College, the Mangalam Center, Berkeley High School, Berkeley City College, the First Response School of Health Care Education and Berkeley city hall are all located within a block of 2211 Harold Way. Also, the Language Studies International building is situated across the street from Berkeley City College, and the David Brower Center is a block east of the 2211 Harold Way block. Loud noise (including drum-playing, rock bands practicing, amplified music, etc) coming from the balconies of 2211 Harold Way could
advocately affect this learning environment, including students and other learners residing at this site and nearby (library, labs, etc.). Please analyze this risk. Note that Section 13.40.010 B. of the BMC states, "Every person is entitled to an environment in which the noise is not detrimental to his or her life, quality of life, health, or enjoyment of property."

Please identify the potential for the project at 2711 Harvard Way to deprive some people of the right to a relatively quiet environment, including an analysis of the combined cacophony of various balconies, even if any given one may be under the legal threshold of decibels.

4. The public nuisance of loud gatherings (with 10 or more people) is prohibited by BMC 13.48.020. The proposed balconies are large enough to accommodate more than 10 people and would serve as party-time platforms that could periodically (perhaps frequently) disturb the peace & comfort of residents and members of the public in the vicinity. Please analyze.

5. It appears that anyone standing at the balcony railing could see into certain of the private units. This is particularly the case with the six-floor balconies.

6. How would the project protect people walking or standing on the ground level from any potentially injurious objects being dropped, tossed or wind-thrown from any of the balconies at the intersection of Harvard Way and Kittredge Street? (Such falling objects could result from children playing or having a frisbee, teenagers playing or fighting, adults quarreling violently, or a gust of wind blowing off a flower pot or some other object.) Could the City, if it approves this application, be found partly or wholly responsible for any injury resulting from an object falling from one of the balconies?

7. Balconies are sometimes used for nude sunbathing. Nudity visible to the public is prohibited by BMC 13.32.010. How could the City properly approve balconies which would serve as potential sources of public indecency? How would the City enforce the law at this site? How would a "beach-like", raucous party, or laundryroom/clothesline atmosphere at & one or more of the balconies affect conservative pedestrians,
Dennis Walton
EIA comments

8. Please identify any possible adverse impacts upon the public display of intimate behavior upon the balcony at 2-211 Shattuck. Among these might be aversion to use of the library (inside & outside) Cafe Clem, and people (pedestrians, area residents & other folks) who may be offended by such conduct (as well as by inebriated loudness, irritating music, or verbal solicitation to "join the party") — as well as the potential risk to the City if a deriver (particularly one coming up kitchridge, note that the slope angles them up toward the lower balcony) sees people embracing, kissing, undressed, etc on a balcony so that they are shocked & distracted enough to fail to halt at the stop sign and consequently strike a pedestrian.

9. Balconies can and do serve as places for drying clothes, beach towels, etcetera. They can also be used to store unsightly items. Many of the balconies are suited for accommodating loud parties — disrupting people's quiet, study & sleep. How would the balconies serve a public purpose? Privately controlled balconies as a function as a public detriment, providing no civic good, only potential risk & harm.

10. Allowing the sale of alcoholic beverages so near to resident minors and various public institutions (library, high school, city hall) is of concern and may be in conflict with the BMC &/or state law.

11. Will the project allow adequate green at a critical time?

12. Will the transportation element study the amount of double parking in Harold Way and Kitchridge Fees? There seems to be frequent short-term double parking on these streets, especially for drop-off & pick-up of students & library users.

13. Current zoning of the Shattuck Hotel and the Dharma College/Mangala Center properties allows the construction, following the destruction of their buildings by seismic activity (as possibly by subsequent fire), of new structures...
which would block most of the eastern & western views from the units at 2211 Harel Way. How might the maximum-level development of these two sites impact the visibility of the project at 2211 Harel Way?

Also, new residential & commercial traffic resulting from a maximum or otherwise major build-out of the sites of the Shattuck Hotel and Dharma College/Mangelman Center would affect the projected traffic. How adverse might these impacts be, in terms of cumulative impacts upon traffic (including parking)? How might parking be affected for (automotive) users of the Berkeley Central Library?
Letter 62

COMMENTER: Dennis Walton

DATE: December 1, 2014

RESPONSE:

Response 62.1

The commenter appears to oppose construction of new housing in Berkeley. Although it does not pertain to the Draft EIR, this comment is noted, and as with all of these comments, will be forwarded to the City’s decision makers for their consideration.

Response 62.2

The commenter asks about the potential health impacts of smoke from project residents barbecuing on the proposed balconies. It is possible that smoke from barbecues on the project’s lower residential floors (which start above street level, on the second floor) could be detected at street level or on other balconies. However, it is not expected that enough residents would be barbecuing simultaneously on these lower floors (smoke from higher balconies, and much of the smoke from lower balconies, would be dispersed mostly up and out into the atmosphere) to affect human health at on-site or off-site receptor locations.

Response 62.3

The commenter states concern that noise from proposed onsite commercial and residential uses could adversely affect surrounding land uses and receptors, including the library and educational institutions. Noise from retail and residential uses does not typically reach levels high enough to be detrimental to the surrounding uses described. In addition, these uses are primarily indoors, as would noise-generating uses on the project site. The specific noise sources cited by the commenter – playing of musical instruments or of amplified music – typically takes place indoors. Finally, Chapter 13.40 of the Berkeley Municipal Code, Community Noise, limits the noise that may be generated from commercial and residential land uses. Enforcement of these regulations is assumed in the Draft EIR analysis of operational noise impacts, which begins on Page 152 of the Infill Environmental Checklist (Appendix A to the Draft EIR) and concludes that such impacts would be less than significant.

Response 62.4

The commenter goes on to opine that the balconies would be large enough to host a party, which could generate noise. Please see Response 62.3 above.

Response 62.5

The commenter states a concern that some proposed residential units would have views of other residential units. This is a common scenario in urban areas, and is not considered a significant environmental impact on the environment that would be subject to CEQA.
Response 62.6

The commenter expresses concern regarding the potential that objects dropped or falling from balconies could hit pedestrians below. This could potentially occur in any urban area with buildings taller than one story, but has not been reported as a problem in regards to other two or more story buildings in Berkeley. The remote possibility that this could occur is not a significant environmental impact.

Response 62.7

The commenter is concerned that the proposed balconies would provide a venue for public nudity. As the commenter points out, public nudity is prohibited by the Berkeley Municipal Code, the enforcement of which is assumed. It should also be pointed out that any public or private space could potentially provide a similar venue, and would similarly be prohibited by the Municipal Code.

Response 62.8

The commenter expresses concern about intimate or risqué behavior taking place on balconies and being visible to the public, and that motorists observing such behavior may lose concentration and cause an accident. Given the large number of existing multi-story buildings with balconies in Berkeley and other cities, and the fact that this type of impact is not known to occur frequently, the remote possibility that this could occur is not a significant environmental impact. Please also see Response 62.7 above.

Response 62.9

The commenter states an opinion that privately controlled balconies are a public detriment and pose only risk or harm, citing storage of unsightly items or the potential for parties. See responses 62.3 and 62.4. Inappropriate use of balconies has not been shown to result in significant environmental impacts related to aesthetics or noise in other multi-family residential buildings. On the contrary, private open space in multi-family buildings is considered to be an important contributor to livability and is required by the Municipal Code.

Response 62.10

The commenter expresses concern about potential detrimental effects of onsite sales of alcoholic beverages. There are many stores, restaurants and bars in Downtown Berkeley that are permitted to sell alcoholic beverages, and significant environmental impacts are not known to result. In addition to the Berkeley Municipal Code, which requires review and specific findings in order to permit such sales, the State of California also must license such sales and monitors license holders. Nevertheless, this concern is acknowledged and will be forwarded to the City’s decision makers for their consideration.

Response 62.11

The commenter asks if the project would “allow adequate egress at a critical time.” As with all major new buildings, the proposed project must meet building and fire codes that ensure
adequate provisions for emergency evacuation. Emergency response and evacuation is further discussed in the Infill Environmental Checklist starting on Page 125; as discussed there, impacts would be less than significant.

Response 62.12

The commenter expresses concerns about double parking in the project vicinity. The proposed project would provide 171 vehicle parking spaces, which exceeds the minimum requirements of the City’s Zoning Ordinance by 38 spaces. The City’s minimum parking requirements are intended to meet projects’ parking demand and prevent adverse impacts on the Downtown’s parking supply. This may alleviate some of the parking issues on surrounding streets. In any case, double parking is a violation of the City code in most cases and enforcement is assumed to be ongoing. Parking is not typically considered an environmental impact issue under CEQA.

Response 62.13

The commenter asks how the potential for future development adjacent to the site could affect the proposed project in the future. No such development is proposed at this time, and such analysis would be speculative. Speculation is discouraged by CEQA in the analysis of environmental impacts. Such future development would require its own environmental review under CEQA and planning and policy review through the City’s land use entitlement process.

Response 62.14

The commenter asks a similar question in regard to traffic impacts from potential, but not yet proposed future development. See Response 62.13. The traffic studied used in the Draft EIR included traffic generated from cumulative development (see Section 3.0, Environmental Setting, of the Draft EIR).
From: Wanda Warkentin [mailto:wandawarkentin@hotmail.com]
Sent: Monday, December 01, 2014 3:00 PM
To: Sage, Aaron E.
Subject: Comment on EIR for proposed Shattuck Hotel development

Aaron Sage:

I would like to comment on the development of the Shattuck Hotel. How does this kind of huge development help the environment? Is the idea that you stuff many people into smaller areas the principal behind it? That the average citizen is now the target for their carbon production, even though the people who really destroy the environment are still very much at work doing so and just so happen to be behind these mitigation projects that steal from the ordinary citizen and give more to the landed gentry?

In a sense this is a form of war. It is the same model, except without the bombs. A need is created designating that old buildings be destroyed and then of course we need rebuilding at the expense of the citizens. Just like Iraq, right? Somebody always makes a lot of money and the citizens lose their money their rights, their land, lives and their history. You rebuild huge buildings where you can only see other buildings, you kill the spirit of the human being. Is that the idea?

How will solar panels be effective with so much shade? What about those earthquakes we've been told the Bay Area is so susceptible to? Do you truly believe you have a mandate? Many people feel that they have been duped by the deceptive way that measure R was presented to them, and are hopping mad that they voted the wrong way. They love their movie theaters and their post office. And didn't Patrick Kennedy promise the reinstatement of movie theaters destroyed in one of his projects, yet they have never been replaced? You rely on the ignorance of the public. Most people don't know about this EIR, for instance. Our city officials need to start working for their public instead of giving our once beautiful city and historical buildings away to developers.

Sincerely,

Wanda Warkentin
Letter 63

COMMENTER: Wanda Warkentin

DATE: December 1, 2014

RESPONSE:

Response 63.1

The commenter questions the environmental benefits of the proposed project. The environmental impacts of the project are discussed throughout the Draft EIR and its appendices. The comment does not appear to pertain specifically to the Draft EIR analysis or conclusions; therefore a specific response in that context is not possible.

Response 63.2

The commenter appears to be expressing opposition to the project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response 63.3

The commenter asks whether the project would block solar accessibility. Shadow impacts are discussed on Page 77 of the Infill Environmental Checklist (Appendix A to the Draft EIR). Impacts would be similar to those disclosed in the certified Downtown Area Plan EIR and would be less than significant. As discussed there and shown in figures 32 and 33, there would be no significant impacts to neighboring structures wherein access to solar rays for energy production via photovoltaic arrays would be precluded in a substantial way.

The commenter also asks how earthquakes would affect the proposed project. Impacts related to seismic ground shaking are discussed starting on Page 106 of the Infill Environmental Checklist. As discussed there, the project’s Geotechnical Feasibility Report concluded that the project is feasible from a geotechnical standpoint, provided that the preliminary recommendations included in the report, along with other sound engineering practices, are incorporated in the design and construction. The City of Berkeley requires all projects to comply with the recommendations of their geotechnical reports. Compliance with this uniformly applicable standard condition would reduce the project’s potential impacts related to seismic shaking and landslides to a level of less than significant level.

Response 63.4

The commenter expresses concern regarding removal of and replacement of the Shattuck Cinemas. Please see Topical Response D, Demolition of the Shattuck Cinemas, for information and responses to comments on the historic significance of the theaters.
From: Walter Wood [mailto:whwoodii@gmail.com]
Sent: Monday, November 17, 2014 3:51 PM
To: Zoning Adjustments Board (ZAB); City Clerk
Subject: Comment on building proposal for ZAB building permit #13-10000010

Please forward this to the Zoning Adjustment Board

RE: building use permit #13-10000010’s an 18 story 302 apt/condo high rise plan that has been proposed for downtown on Shattuck Ave, destroying a cinema.

Do NOT approve this project, it is detrimental to the residents of Berkeley. Keep Berkeley a medium sized university town - - NO tall buildings.

Walter Wood
1709 Berkeley Way
Berkeley, CA 94703
Commenter: Walter Wood

Date: November 17, 2014

Response:

Response 64.1

The commenter requests that the proposed project not be approved and that Berkeley be maintained as a medium sized university town without tall buildings. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
From: Walter Wood [mailto:whwoodii@gmail.com]
Sent: Sunday, November 30, 2014 8:37 PM
To: Sage, Aaron E.
Cc: Berkeley Mayor's Office; Maio, Linda; Zoning Adjustments Board (ZAB)
Subject: please OPPOSE destruction of the Shattuck Cinemas

Word is spreading that someone has proposed building an 18 story building on the site of the Shattuck Cinemas at 2211 Harold Way. That historically significant and beloved movie theater is a draw for people from all over the Bay Area and will be a great loss for Berkeley's downtown cultural life. Please make sure this does not happen as another tall building would add to Berkeley's density problems and be detrimental to the residents of Berkeley.

Walter Wood
Berkeley Way
COMMENTER: Walter Wood

DATE: November 30, 2014

RESPONSE:

The commenter states opposition to the removal of the Shattuck Cinemas and states an opinion that they are historically significant. Please see Topical Response D, Demolition of the Shattuck Cinemas, for information and responses to comments on the historic significance of the theaters.

The commenter also states an opinion that Berkeley has “density problems” that the project would contribute to. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers.
From: Charlene Woodcock [mailto:charlene@woodynet.net]
Sent: Monday, December 01, 2014 12:51 PM
To: Sage, Aaron E.
Subject: Comment on the 2211 Harold Way EIR

Dear Mr. Sage,

The architectural plan to replace the Hink’s building with a large highrise to house condominiums is greatly out of scale with the historic core of our city. It would tower over the adjacent buildings-our beautiful one hundred-year-old post office, our Public Library, the YMCA Building.

What Berkeley needs is affordable housing, and this project from a Los Angeles developer does not address that need. Instead, it is evidently based on the assumption that wealthy San Franciscans, unhappy with rising housing costs across the Bay, will make Berkeley their bedroom community. I observed this process in my home town of Arcadia and it is not a productive route for a city to take. The city loses its individual character for the sake of housing people without a commitment to the vitality of the city.

The 2211 Harold Way plan would sacrifice the businesses and cultural venues that attract residents and visitors to downtown Berkeley. It is the economic success of our local businesses that gives the city its character and serves the needs of the residents and visitors who patronize them.

There are many of us who place a very high value on the Shattuck Cinemas, run by Landmark to provide Berkeleyans and visitors from other East Bay communities with the independent and foreign films we prize. Even if theater space is included in the project, we will lose the Shattuck Cinemas for years and probably forever, as was the case with the Fine Arts building development. The people who come to the Shattuck Cinemas also patronize the downtown restaurants. With no Shattuck Cinemas, we'll lose that business as well. And the same is true for the many people who use Ace Hardware every day, or the Missing Link Bicycle Shop, or the Habitot Children’s Museum, or the Berkeley Vacuum and Sewing Machine shop. These are all valued businesses that the city seems willing to sacrifice for speculative residential development. We already have a glut of vacant commercial space thanks to the many development projects of the last decade which included unneeded commercial space on the ground floor.

In addition to my strong objection to the inappropriately large scale of the proposed building, and the destruction of successful businesses long housed in the existing Hink’s building and the other commercial buildings slated for demolition, I strongly object to the blocking of the carefully planned view of the Golden Gate from the Campanile on the UC Berkeley campus. The campus is the heart of our city and its cultural and economic engine. It is one of the greatest public universities in the world. How outrageous that a private developer from southern California should presume to plan a building so large and out of keeping with its historical built environment as to disrupt the architecture and landscape design of our University of California campus.

Sincerely,

Charlene M. Woodcock
2355 Virginia Street
Berkeley CA 94709

[I sent this on 11/17/14 to the ZAB]
Letter 66

COMMENTER: Charlene Woodcock

DATE: December 1, 2014

RESPONSE:

Response 66.1

The commenter states an opinion that the proposed project is greatly out of scale with Berkeley’s historic core. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response 66.2

The commenter states an opinion that the project does not address the need for affordable housing in Berkeley. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers. It should be noted that the project would be subject to the City’s affordability requirements (i.e., affordable housing mitigation fees and/or on-site below-market-rate units).

Response 66.3

The commenter states an opinion that the project would harm or remove businesses and cultural venues that attract residents and visitors to Downtown Berkeley. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers.

Response 66.4

The commenter states an opinion that the project’s proposed new commercial space is not needed, and opposes the loss of the Habitot Children’s Museum and Shattuck Cinemas. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers.

Response 66.5

The commenter states opposition to the partial obstruction of westward views from Campanile Way that would result from the proposed project. This impact is discussed in the Draft EIR in the Infill Environmental Checklist (Appendix A to the Draft EIR), in Section 4.1, Cultural Resources, of the Draft EIR, and in Topical Response B, Impacts to the Westward View from Campanile Way, in this Response to Comments document. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers.
3.3 PUBLIC HEARING COMMENTS

Verbal comments received at the three public hearings (Design Review Committee, November 4, 2014; Landmarks Preservation Commission, November 6, 2014; and Zoning Adjustments Board, November 13, 2014) are presented below in transcript form and individually numbered, with responses following.
<table>
<thead>
<tr>
<th>Name</th>
<th>Statement</th>
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<tr>
<td>Jim Goring</td>
<td>So, the first and last item on today’s agenda is 2211 Harold Way. This is review and comment of draft EIR for proposed 18-story mixed-use development in downtown Berkeley, including the demolition of the 1959 Hinks Building and removal of the 1926 addition and portions of the 1913 addition, the Shattuck Hotel City Landmark Building. We’re in the rather odd position of not having someone here from the development team to present their project.</td>
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<tr>
<td>Anne Burns</td>
<td>No, this is – they will be presenting at the November 20th meeting --</td>
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<tr>
<td>Speaker</td>
<td>At our meeting.</td>
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<tr>
<td>Anne Burns</td>
<td>Right. At the regular meeting at the North Berkeley Senior Center.</td>
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<tr>
<td>Kim Anno</td>
<td>That’s why they’re filming, I think.</td>
</tr>
<tr>
<td>Anne Burns</td>
<td>Right. I think they’re filming because we, we didn’t ask the applicant to present, because the proposed project is in the book. There are alternatives in the book – a conceptual one, a preservation one. And there are probably, I would say, at least four, four items that have been noted that could make the project more contextual, and help mitigate some of, or some mitigations for its impact. And, uh, Sally Zarnowitz is here. She’s secretary for Landmarks. And this is a structural alteration permit that will be ultimately on this project, as well as a use permit, which is, this committee is advisory to ZAB. So it’s why they feel it’s important that we, we look at it, and we make any recommendations that we can on the document that we can forward on to Landmarks, but, even more importantly to ZAB, or Subcommittee.</td>
</tr>
<tr>
<td>Speaker</td>
<td>Thank you.</td>
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<tr>
<td>Anne Burns</td>
<td>Landmarks can probably hold their own, but we will definitely forward them on to them.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>So, yeah, just to piggyback on that. So just to piggyback on that, again, the reason, um, you know, we felt that, the reason it would be important for DRC to comment on this and provide comment to the LPC and to the ZAB, certainly, on the draft environmental document, um, has to do with the fact that, you know, this is really analyzing impacts to cultural resources. And there’s the one impact, which would be the demolition of the significant resources. But there’s another one that is related to design. And since this is the ZAB Subcommittee that specializes in design, it would be important, we felt, for you to look at those mitigation measures and, you know, which Ann’s referring to.</td>
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<tr>
<td>Anne Burns</td>
<td>Right.</td>
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<tr>
<td>Sally Zarnowitz</td>
<td>And, you know, give some input on that, and also to look at the alternatives.</td>
</tr>
<tr>
<td>Anne Burns</td>
<td>Yeah.</td>
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<tr>
<td>Sally Zarnowitz</td>
<td>To see, um, whether, you know, the alternatives incorporate a lot of the mitigation measures, and, you know, and so, we’re also looking for you to, um, make any comment that you want to to ZAB relating to the, um,</td>
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adequacy of those mitigation measures, whether or not they are appropriate and also, there’s also a section in there, which, uh, we pointed out, which is where the document talks about what the project does do, uh, mitigate its impact to the adjacent resources. Um, and that’s – we can give you that exact page, if you want. But it’d be good for you to, you know, weigh in on whether you agree with that, as well, you know, the things that it’s doing already to make it more compatible. So . . .

Speaker  Thank you.
Sally Zarnowitz  Uh-huh. Thanks.
Jim Goring  Um, well, with that, and I suppose that – the documents themselves more or less being the, uh, applicant’s description.

Speaker  [Inaudible]
Hunter  I’m Hunter. I apologize.
Speaker  He also [inaudible]. So you see [inaudible].
Jim  Well, then I guess if the committee – we would usually go to Committee questions first, and since Matt is here to possibly represent the developer in terms of answering questions, does the Committee have questions for the developer?

Sally Zarnowitz  Well, the questions would really be for the City today, because it’s the City’s document.
Speaker  Exactly.
Anne Burns  And the – yeah, consultants might be able to field them.
Sally Zarnowitz  I think there was a question. We should introduce Abe in the corn -- that’s, uh, from Rincon.
Speaker  Well, I have a question for the City and Abe. Who’s the author of the alternative schemes?
Sally Zarnowitz  So, that’s – ARG is the historical consultant that, um, drafted those alternatives, with input from the City.
Speaker  Thank you.
George Williams  I was puzzled. Uh, you were talking about the compatibility of the new development to the remaining historic structure. Do these costs remain on the base of the building? There was really no discussion as to whether the elements above the fifth story, uh, uh, had elements of compatibility.
Sally Zarnowitz  So are you talking about in the mitigations, or in the discussion of what the project does already?
George  I’m not quite sure. I --
Sally Zarnowitz  Okay.
George  I --
Sally Zarnowitz  Okay. Well, the mitigation --
George  Where that point fit in within the framework of the report.
Sally Zarnowitz  Oh, I think the mitigation measure talks about the glazing on the tower, and whether or not that it compatible. And whether the, uh --
George  So, we’re to take from that, everything else is compatible?
Ann  Well, it was – there were four items. It was, uh, horizontal ________ on the Alton allegation. There was the, the, the space between the Shattuck
<table>
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<th>Speaker</th>
<th>Comment</th>
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<tbody>
<tr>
<td>George</td>
<td>All ______ to the base of the building. Not to the elements above.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>Only thing above there are glazing, I believe.</td>
</tr>
<tr>
<td>Anne</td>
<td>Right.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>The glazing.</td>
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<tr>
<td>George</td>
<td>Well, then, if this is a comment on the adequacy of the, of the draft, I think the draft is inadequate in that it doesn’t discuss the _______.</td>
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<tr>
<td>Sally Zarnowitz</td>
<td>In what sense? The massing or the --</td>
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<tr>
<td>George</td>
<td>The, the massing, the, the, uh, the ______ing. The, uh, the big issue related to the _______ corridor down from the University, which relates to the mass of the building on the north element. All of those elements seem to be missing from the discussion.</td>
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<tr>
<td>Sally Zarnowitz</td>
<td>Um, the document actually says it does have – I have that page for you.</td>
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<tr>
<td>Speaker</td>
<td>The view corridor’s pretty well documented in here.</td>
</tr>
<tr>
<td>Anne</td>
<td>The view corridor is.</td>
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<tr>
<td>Speaker</td>
<td>Take some pictures, yeah.</td>
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<tr>
<td>Speaker</td>
<td>They did some photo simulations.</td>
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<tr>
<td>Anne</td>
<td>They didn’t make any mitigations to it because I believe that EIR is – and Abe could speak to this – EIR is not saying that it’s a significant impact.</td>
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<tr>
<td>Speaker</td>
<td>Significant, which is not necessarily --</td>
</tr>
<tr>
<td>Anne</td>
<td>And so they didn’t do alternatives to that, because – someone else can explain that better than I can. About state law, the state --</td>
</tr>
<tr>
<td>Jim Goring</td>
<td>Well, just want – related to that. Do none of the ARG alternatives have alternate massing that would impact the, any of the impingement on view corridor.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>Well, the preservation alternative does reduce the height in that corridor.</td>
</tr>
<tr>
<td>Jim Goring</td>
<td>And I would like to refer to it as something other than the view corridor, because as far as I know, there’s no document establishing a view corridor.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>Right. Right.</td>
</tr>
<tr>
<td>Jim</td>
<td>It’s just a nice view.</td>
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<tr>
<td>Austine Hall</td>
<td>There’s a historic plan that UC Berkeley started a landscape plan that talks about the view corridor.</td>
</tr>
<tr>
<td>Jim</td>
<td>I’m sure there are lots of correspondence between people in the various communities in the city, and _______ the view corridor. But there is no legislation, therefore, any _______ reserve rights.</td>
</tr>
<tr>
<td>Anne</td>
<td>It’s not a --</td>
</tr>
<tr>
<td>Jim Goring</td>
<td>It’s a nice view.</td>
</tr>
<tr>
<td>Speaker (white shirt)</td>
<td>Well, Jim, I would say, it’s more than that, because it, it’s one of the significant axes on which the University was based.</td>
</tr>
<tr>
<td>Speaker</td>
<td>Absolutely.</td>
</tr>
<tr>
<td>Speaker (white shirt)</td>
<td>So, legally, view corridor, you know, that may have a particular term, but insofar as the, uh, the Bernard Plan for UC Berkeley and the, uh, later the way it was actually put into effect by, um, Howard, that view is very important from the _______.</td>
</tr>
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</table>
There was a study that was done __________.

It was discussed as the axis view corridor site in many of these art – why, all the articles. Um, and it has always been treated that way. And UC has written about it that way, and it has been written in our own downtown – in our own plan, uh, general plan for the City of Berkeley. So, it’s been recognized as an historic --

So, the alternative does have _______ potential.

Okay. These are still questions, right?

Yah, I’m sorry I focused on the corridor. That was a minor addition to my basic view is that the, the appearance of the mass above the base of the building has an effect on, on the compatibility of the project. And that is nowhere discussed in this document.

It is discussed.

Not the mass. The clouding is. It’s the clouding, right?

It’s both.

The massing is also discussed. Here, let me find it.

Well, the ________ is only discussed in assuming that it’s okay. There are a lot of people who don’t feel that an 18-story building is appropriate for --

Well, even if it is an 18-story building, looking like this may not be as compatible --

Right.

-- as an 18-story building with different ________.

Yes.

__________________.

It’s discussed in the main document. It’s also summarizing what’s in the HR __________ in the appendices.

What page are you on?

I am on the – right now on the historic resources technical report. Um, page 40 of 53, at the back. It’s the back appendices. So you have to go back to this cover sheet. Section 8.2.2 of Design-Related Impacts.

What page – yes. What page?

If only they were sequentially numbered.

It’s also – you can find in on 4.1, if you can find it in 4.1.

4.1?

Yeah. But it’s more detailed, and there’s four compatibility issues that were discussed in the design-related impacts.

What is the page, Sally?

So, it’s page 40 of 53. It’s Section 8.2.2 in the Technical Report. Talking about design-related impacts.

Yeah. I think I read that. I --

Can it be a comment, and then the response to comments can say I’m
<table>
<thead>
<tr>
<th>Speaker</th>
<th>Yes. Yes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jim</td>
<td>Can you recap your comments, 'cause I think you’ve ________ .</td>
</tr>
<tr>
<td>Speaker</td>
<td>Doesn’t, uh, doesn’t, uh --</td>
</tr>
<tr>
<td>George</td>
<td>The massing of, above the base of the building – there’s a five-story setback, and that matches the Shattuck frontage. The mass above that has an impact on the Shattuck frontage, uh, and in the context of the materials it’s used, the planning that’s been used --</td>
</tr>
<tr>
<td>Speaker</td>
<td>Right.</td>
</tr>
<tr>
<td>George</td>
<td>-- and the massing. And I don’t think that it’s been adequately discussed.</td>
</tr>
<tr>
<td>Speaker</td>
<td>Okay.</td>
</tr>
<tr>
<td>Jim</td>
<td>Well, I would add, I mean, I guess, uh, _____________ I think you were on the Subcommittee, also.</td>
</tr>
<tr>
<td>Austine Hall</td>
<td>Yes.</td>
</tr>
<tr>
<td>Ann</td>
<td>And George.</td>
</tr>
<tr>
<td>Jim</td>
<td>And George. Okay. And we did sort of go over that extensively about the, the, two different conditions of the shaft and the base, the different _______ on both of them. So I guess your point now is, from the Shattuck Street side, that the lower, sort of shoulder massing – I’m trying to get specific about what your comment is. Because, in fact, we did discuss this at the ___________ .</td>
</tr>
<tr>
<td>George</td>
<td>My comment is, all the comments seem to be related to that portion of the building. Not that portion of the building. And I think those materials, uh, and that ______ stratation, and, and, and, the ______ have an impact on a cultural resource. And I think it should be discussed.</td>
</tr>
<tr>
<td>Ann</td>
<td>I just need to note here – one of the four items is that could bring it more, or could help mitigate some of the visual impact is the glazing. And that it has too much storage front glazing, or Kurdwall glazing, I should say, instead of a solid wall. But that is has, but it’s not the massing.</td>
</tr>
<tr>
<td>George</td>
<td>I don’t think what the solution is.</td>
</tr>
<tr>
<td>Ann</td>
<td>Right</td>
</tr>
<tr>
<td>George</td>
<td>That’s on the table. I just think the discussion is inadequate.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>The, um, conclusion, or in the analysis – you know, there are four reasons that it would be compatible already, and one of them is the massing is broken up by varied rooflines and materials which prevents the new construction from presenting a monolithic appearance. That’s number 3 on page 41, so, um, I could show you that, and it sounds like you might be, you know --</td>
</tr>
<tr>
<td>George</td>
<td>I guess I disagree with it.</td>
</tr>
<tr>
<td>Ann</td>
<td>Yeah. Okay.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>Okay.</td>
</tr>
<tr>
<td>George</td>
<td>Well, now, that just talks about rooflines or raw materials. I see.</td>
</tr>
<tr>
<td>Ann</td>
<td>Um-hum.</td>
</tr>
<tr>
<td>George</td>
<td>That is ___________.</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>Preventing the new construction from presenting a monolithic appearance.</td>
</tr>
<tr>
<td>George</td>
<td>Oh, I see. All right.</td>
</tr>
<tr>
<td>----------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Sally Zarnowitz</td>
<td>You know?</td>
</tr>
<tr>
<td>George</td>
<td>My concern is compatibility with historic resource.</td>
</tr>
<tr>
<td>Jim</td>
<td>I think we’re still.</td>
</tr>
<tr>
<td>Ann</td>
<td>I know. But when we get there, I didn’t want you to forget.</td>
</tr>
<tr>
<td>Jim</td>
<td>Authine?</td>
</tr>
</tbody>
</table>

**Austine Hall** My question is probably more to the developers than to the EIR writer, but anyway – and that is when you see this EIR, suddenly you have these other cultural and historic alternatives, and yet, nothing like those was ever presented to us when we were looking at this, this – nothing came close to anything that you would see in this EIR. And it was never discussed. It was never presented. It was just, we got this type of building, we didn’t get – and it, it’s from the bottom all the way up, but I understand where George is coming from. Um, they never looked at it in terms of – in my perspective – the buildings around it. My impression would be, why not? Why didn’t we see anything like this? Why didn’t we get any, any kind of, um, building that referred, except for some of the top parts and the setbacks, which are the zoning, um, why didn’t we get ones that referred more to their contextual surroundings? This building doesn’t have.

<table>
<thead>
<tr>
<th>Jim</th>
<th>That sounds a lot more like a comment than a question.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austine Hall</td>
<td>Well, it’s a question, why didn’t we?</td>
</tr>
<tr>
<td>Jim</td>
<td>Well, I would answer it.</td>
</tr>
<tr>
<td>Austine Hall</td>
<td>It’s my question.</td>
</tr>
<tr>
<td>Jim</td>
<td>I mean, who’s gonna answer that?</td>
</tr>
<tr>
<td>Ann</td>
<td>Um, we will note that question. Unless, Sally, did you --</td>
</tr>
<tr>
<td>Jim</td>
<td>I would have a comment to address that, but I’ll save it for comments. Um, any other questions from the Committee?</td>
</tr>
<tr>
<td>Public</td>
<td>Well, I would like to say something.</td>
</tr>
<tr>
<td>Jim</td>
<td>Now’s not the time. There will be a time for public comments. If you have – if you would like to speak, can you fill out a speaker’s card, and Ann will take it.</td>
</tr>
<tr>
<td>Public</td>
<td>Okay.</td>
</tr>
<tr>
<td>Jim</td>
<td>We’ll have that in just a minute.</td>
</tr>
<tr>
<td>Speaker</td>
<td>This may be totally irrelevant. I’m so sorry.</td>
</tr>
<tr>
<td>Jim</td>
<td>That’s okay.</td>
</tr>
<tr>
<td>Speaker</td>
<td>So the third movie complex on the street – is one of them, the other ones, going away?</td>
</tr>
<tr>
<td>Jim</td>
<td>It’s – the one that’s in this building is being absorbed and recreated within the building. So it’s not another one. It’s kind of a --</td>
</tr>
<tr>
<td>Speaker</td>
<td>It’s replacing it.</td>
</tr>
<tr>
<td>Jim</td>
<td>--preservation of existing one.</td>
</tr>
<tr>
<td>Speaker</td>
<td>Okay.</td>
</tr>
<tr>
<td>Jim</td>
<td>Preservation may be an inappropriate word there. Um --</td>
</tr>
<tr>
<td>Speaker (white shirt)</td>
<td>So, just a general question, and sort of backing up, in terms of, um, you</td>
</tr>
</tbody>
</table>
Ann: No, no, no. Not only – no, no, no. Those are four items that the EIR – in fact, our question to you is, is there more? Are those appropriate even? They might not all be. You may say, hey, you like these three, but this one is fine the way it stands, or not. Or we’ll, we’ll size it [pounding her fist] November 20th, or just – this is to get any comments we can on the EIR.

Sally Zarnowitz: Right. We recognize – typically this Committee doesn’t see draft EIRs in this capacity. Right? Uh, but in this case, the, the mitigations are so closely tied to design, and so, we are asking you to focus on the idea of a mitigation, a significant impact to mitigation to that. And then you would see the whole project again on the 20th.

Ann: Right.

Speaker (white shirt): And should we also comment on things that would otherwise be under the, um, LBC’s purview?

Ann: ‘Cause we’re forwarding it on, but I don’t know. It’ll be forwarded.

Sally Zarnowitz: You don’t want to do that individually. If you want to be able to see this on Thursday night. The LBC. So, the idea of this Subcommittee was to focus on design.

Speaker (white shirt): And that will also be within the time period for comments on the EIR?

Ann: Oh, yeah, right. It’s on the 19th, I believe.

Sally Zarnowitz: Absolutely.

Ann: As well as ZAB.

Speaker: My question --

Jim: Sorry, I’m going to have to throw a question in. For the visual, the view simulation, this, what looks like, I’ll call it the north shoulder of the building, is obscuring some of the Bay view. What is – is there – I think it would be worthwhile in terms of evaluating the severity of that impact for them to insert a dotted line representing the height of a normally entitled building on that same space. As I understand it, the height of that building is, is quite a lot higher than the normal height limit in the area, or am I incorrect about that?

Sally Zarnowitz: Well, there are three buildings allowed, up to 180 feet in the downtown corridor.

Jim: But the portion of the building that’s in the view corridor isn’t the 180-foot part. It’s the, um, it’s the lower --

Ann: Shoulder

Sally Zarnowitz: I see.

Jim: Yeah.

Sally Zarnowitz: So, you want to see 180 feet?

Jim: No, no, no. My question is, I think that – and correct me if I’m wrong.

Sally Zarnowitz: Seventy-five feet.

Jim: Seventy-five feet, I think is the standard zoning. So the actual impact that’s being --

Austine Hall: Sixty-nine feet.
Jim  -- whatever it is. It’s a number. It’s not zero. So I think it would be a useful piece of information to have on the, uh, the view analysis, to show here’s what the current zoning allows without a use permit or anything else like that.
Ann  Um-hum. Great.
Jim  Are there any other questions? This is a big fun book for us to digest.

[End of video]
MEETING: Design Review Committee

DATE: November 4, 2014

RESPONSE:

Response DRC.1

The commenter states an opinion that the Draft EIR does not include discussion of whether elements of the proposed project above the fifth floor were compatible with the remaining historic structure. See Topical Response A, Project Visual and Historic Compatibility Impacts, for response to this comment.

Response DRC.2

The commenter states an opinion that the Draft EIR is inadequate because it does not discuss the massing of the proposed project and its impact to views from Campanile Way. See Topical Response A, Project Visual and Historic Compatibility Impacts, and Topical Response B, Westward View from Campanile Way, for responses to this comment.

Response DRC.3

The commenter asks whether any of the project alternatives would reduce the impact on the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response DRC.4

The commenter opines that Campanile Way is a significant axis on which UC Berkeley is based and refers to the Bernard Plan for UC Berkeley and campus architect, John Galen Howard, before stating an opinion that the view from the corridor is important. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response DRC.5

The commenter states an opinion that the Campanile Way “view corridor” has been recognized as a historic resource by the City and by UC Berkeley. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response DRC.6

The commenter opines that the Draft EIR does not adequately discuss the impact of the massing of the proposed project above the base of the building on its compatibility with surrounding historic resources. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.
Response DRC.7

The commenter reiterates an opinion that the Draft EIR does not adequately discuss the impact of the massing of and the materials to be used in the proposed project above the base of the building on the Shattuck frontage. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response DRC.8

The commenter re-states concern regarding compatibility with surrounding historic resources. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response DRC.9

The commenter states an opinion that the DRC should have reviewed applicant-prepared project options that address historic resources and contextual design considerations. This comment does not pertain to the Draft EIR but will be forwarded to the decision makers for their consideration.

Response DRC.10

The commenter requests that the visual simulations in the EIR include a dotted line representing the height of a “normally entitled building” in the same location as the proposed project and states an opinion that the proposed project is taller than a “normal height limit in the area.” Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. At the base 60-foot base height limit in the C-DMU Zone District, the proposed project would not be visible from Campanile Way, except as an additional rooftop among other rooftops currently visible from that location.
Male Speaker  | Important films for thought provocation can be presented. Chadwick Theatre has been excellent. Many couples meet there and are decide to become married because it’s such a comfortable place to sit a watch a movie those people future should be respected. Basically the demolition concept has a vague promise that there will be a theatre there at the Sixplex Theatre developed later, there’s another theoretical claim that the verdict original building theatre building on Harold will be rebuilt in our basement. That’s a promise and like several other promises made by developers it’s fuzzy, they can quickly vanish like a rain producing cloud so I hope that the City may consider not demolishing the Chadwick Theatre because many young people and people like me with gray hair go there – they come from other cities, they come from Palo Alto, Marine County far distances to see interesting films there that cannot be seen in a lot of other places, very rare films – Black people, Chinese people, White people, Old people, Young people come to that theatre they are edified in demolishing it will be [Inaudible] duty to the young people in this city who already don’t have the Berkeley film archive because of the demolition done by Pacific film archive which was been demolished by University people, so the continuity of old people passing on controversial and important subject matter for film should be respected and a demolition of this theatre is a disrespect to the young people and to the artist who create these significant films. I request your consideration of not demolishing the Chadwick Theatre.

Female Commissioner | Thank you. And we have one other person who wants to speak on how Harold Way who has to leave Judy Shelton.

Judy Shelton | I don’t know how these things work.

Female Speaker | You should be able to tip it or take it out.

Judy Shelton | So I have a question about Harold Way, that project. Why is the Landmark Theatre slated to be demolished? Who benefits from this? Not the citizens of Berkeley who prize the Landmark for its independent films and not the Landmark itself who will lose business they can’t afford to forego. Not the employees who will lose their jobs, so who does benefit. Well developers benefit. The developers benefit and elected officials who take money from developers will benefit and that is why this theatre is on the chopping block. We know that the replacement Landmark we’ve been promised will never be built. Why
do we know this, because the environmental impact report for this
dstructure which on your agenda tonight contains no legal mandate to
build a new theatre and because the plans for this structure situate the
theatre so poorly that the Landmark wouldn’t even want to be rebuilt
there, they’d go out of business. The City and the developers know this
and we know this. Berkeley citizens value this theatre highly, we
would keenly feel its loss, we want to keep it just like it is. This
commission has an opportunity to stand with the citizens of Berkeley
not the developers and not the politicians who glue with the developers.
Please don’t put your stamp of approval on the EIR that’s before you
tonight. Don’t pave the way for the developers to tear down the
Landmark Theatre. Thank you.

<table>
<thead>
<tr>
<th>Female Commissioner</th>
<th>Thank you and another referral 2211 Harold Way draft DIR comments and Sally has staff report and PowerPoint presentation for us.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sally Zarnowitz</td>
<td>So this a [Inaudible] project you will have [Inaudible] help me just go through that in some detail, what the process is [Inaudible]</td>
</tr>
<tr>
<td>Various voices</td>
<td>Lots of chatter – lots of background noises</td>
</tr>
<tr>
<td>Sally</td>
<td>SALLY IS NOT TALKING INTO THE MIC SO HER VOICE IS VERY LOW – MUCH OF WHAT SHE SAYS IN INAUDIBLE UNTIL SHE STARTS SPEAKING INTO THE MIC.</td>
</tr>
</tbody>
</table>

Architectural and historical consultants they are [Inaudible] For the commission review they are aware [Inaudible] facts and identify waste before they reduce any of those facts consider feasible alternatives and also enhance public participation and right now [Inaudible] flow charts where we are, we’re in the public review period. There was a study or [Inaudible] checklist that was completed and this Commission [Inaudible] scoping and right now the document is circulating so the City is soliciting comments. Again, here’s the timeline and the close of comment period is expected to end November 19 and then decisions on the project after the final DIR will be anticipated to happen in January, so this is reminding the Commission also as the document explains it is a Streamlined DIR so this is about Streamlined CEQA Review read all these words. It does qualify for that as niche-key project and relies to a large extent on the Downtown area planned DIR again just to move through a lot of this. One of the key issues in the DIR the house [Inaudible] many times I think in other meetings discussions has been the issue of aesthetics and if Draft DIR does address that it also it actually quotes the fact that [Inaudible] 743 that [Inaudible] of a qualifying [Inaudible] and it also is added to that is a set of impacts in this context do not include a tax on this historical or cultural resources so that is why the view issue is reviewed under historical resources. So there are Significant and Unavoidable Impacts, we define the Draft DIR goes over basically three different types, the Significant and Unavoidable Impact will include the demolition of the additions to the Shattuck Hotel and I think there is a [Inaudible] included in this which
could not reduce it to less significant but it is included in the Commission obviously we should be looking at that in the Draft DIR Impact Report. Just a reminder Commission that a project that may cause a substantial change in the significance of a historical resourcing (bear with me I’m reading from CEQA) is a project that may have a significant effect on the environment and that means the substantial average change means demolition to structure [Inaudible] or substances significant and then historical resources would be impaired and then the standard or the threshold of material of parent resource is when a project demolishes or interior wall in an average manner those physical characteristics and historical resources that conveys historical significance and justifies its conclusion in the California [Inaudible] Register and that’s something to consider as you’re looking at the impact analysis. Significant but Mitigable Impacts are included in the DIR as well and in that case these have to do with impacts to the [Inaudible] setting of the landmarks that would remain, Shattuck Hotel in particular and it includes mitigation design mitigation and you also have comments from the design reviews subcommittee that looked at some of those mitigations but in particular we’re looking to the Commission to understand how those 4 mitigation measures would mitigate the impacts from the new construction basically hotel. And then less than significant impacts and in this case traffic I’ve not really talked about that because this Commission really deals with the issue of historical resources but in terms of historical resources there’s CR3 I believe which is where the impacts took a view from the Campanile Way, I analyze there’s been comments again in previous meetings so I think it’s worth pointing out that this document does look at the significance of Campanile Way does call it Significant Resource they define [Inaudible] a new document defines Campanile Way as a contributing element to a cultural landscape so it’s a contributing element to the classical core which is defined by the campuses heritage plan as a cultural landscape or could something similar to a historic district and Campanile Way is seen as contributing element to that of the view itself as seen as a character of [Inaudible] feature of that resource.

<table>
<thead>
<tr>
<th>Female voice</th>
<th>Excuse me, could I ask you please just go back one slide for a second so I could get a [Inaudible]</th>
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</thead>
<tbody>
<tr>
<td>Sally</td>
<td>So that CR3 is seen as an impact if you will but a less than significant impact and only because of the previous analysis analyzes the level of that impact and related to the definition I reviewed before earlier which is the impact would be so significant that Historical Resource would no longer be eligible for [Inaudible] with a local Register or the National Register so that’s the threshold against which that [Inaudible]</td>
</tr>
<tr>
<td>Female voice</td>
<td>Have you considered using a microphone or something. You’re speaking quickly and …</td>
</tr>
<tr>
<td>Sally</td>
<td>I do speak quickly. Y’all don’t want me to speak too slow …</td>
</tr>
<tr>
<td>Speaker</td>
<td>Speech</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Female voice</td>
<td>We’ll be here all night.</td>
</tr>
<tr>
<td>Sally</td>
<td>Can I just take that off. How’s that? Is it working?</td>
</tr>
<tr>
<td>Group Voices</td>
<td>No. It’s exactly the same. Is there like a button.</td>
</tr>
<tr>
<td>Sally</td>
<td>There we go. How’s that. The document also looks at project alternatives as its required to.</td>
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<tr>
<td></td>
<td>One is the No Project, the second the Preservation Alternative and this PowerPoint looks</td>
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<tr>
<td></td>
<td>at the document itself compares the alternatives so the Preservation Alternative has</td>
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<td></td>
<td>fewer units it retains a setback from the Historic facades and then Alternative 3 is the</td>
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<td></td>
<td>Contextual Design Alternative which has again fewer units and the massing is directed to</td>
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<td>the southwest. I think we have images here. So this would be the Preservation Alternative</td>
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<td></td>
<td>which again is in the document and it retains the bulk of the Historic Resources on the</td>
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<td></td>
<td>site, steps back appropriately in order to be contextual and meet the standards for</td>
</tr>
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<td></td>
<td>preserving the building.</td>
</tr>
<tr>
<td>Various voices</td>
<td>Chatter.</td>
</tr>
<tr>
<td>Sally</td>
<td>We can speak to that later we’ll open the public hearing in a minute.</td>
</tr>
<tr>
<td></td>
<td>So and this looks at the Preservation Alternatives relationships to impact to how it</td>
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<td>mitigates or those impacts and then the Contextual Design Alternative is also looking at</td>
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<td></td>
<td>the impact specifically to the existing to the Hotel, the Historic Resources creating a</td>
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<td></td>
<td>base that’s similar and breaking down the massing, working at the break from the Shattuck</td>
</tr>
<tr>
<td></td>
<td>Hotel so many of the alternatives I mean the mitigations are incorporated into this.</td>
</tr>
<tr>
<td>Male voice</td>
<td>Excuse me. Is it also, does the massing in this option restore the view from Campanile Way</td>
</tr>
<tr>
<td>Sally</td>
<td>So again, we’ll open the public hearing in just a minute and then we can have those</td>
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<td></td>
<td>comments and that discussion. And then this is just looking at the Contextual Design</td>
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<td></td>
<td>Alternative overall to get kind of the idea of how’s it’s broken down and steps up. Also</td>
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<td></td>
<td>again as I mentioned we have the Architects here and they can answer plenty of questions</td>
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<td></td>
<td>any questions the Commission has about this and this is looking at how again the</td>
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<td></td>
<td>Alternatives in the document talks about how the Alternatives would mitigate impacts</td>
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<td></td>
<td>Preservation Alternatives mitigating addressing the impacts I would say of demolition and</td>
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<td></td>
<td>the Contextual one looking more at addressing the issue of compatibility with the</td>
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<td>existing Hotel and this is again the document is circulating and this is an opportunity</td>
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<td></td>
<td>to take public comments – comments from the public and also of course from the</td>
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<td></td>
<td>Commission and forward those so that they can be responded to and that a response to the</td>
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<tr>
<td></td>
<td>comments and integrated into the document. Thank you.</td>
</tr>
<tr>
<td>Female Commissioner</td>
<td>We have many cards. We will time each [Inaudible] we’ve been doing that – 3 minutes unless</td>
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<td></td>
<td>it gets – don’t want to run too too long. We’ll just start here with comments from the</td>
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<tr>
<td></td>
<td>public Donna Michaelson and then call Max.</td>
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<tr>
<td>Donna Michaelson</td>
<td>So my name is Donna Michaelson and I came here tonight because I am stunned that the City</td>
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<td>would allow the loss of the Landmark.</td>
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Shattuck Cinemas for Cinemas in that place. People especially planners refer to the Downtown Arts district – I guess they must have a very narrow definition maybe just that part block of Addison Street. In the meantime our Downtown is haunted by vacant business along with long time institutions of real use to residents that will soon be gone, Ace Berkeley Hardware, Berkeley Vacuum for example. One of the more significant in my view is the Landmark Shattuck Cinemas it’s easy to build towers of lucrative housing but hard retain and build vitality and life on the streets. How can we even consider destroying the business that brings hundreds daily and nightly to our Downtown and its restaurants and shops. I just tonight saw a document that says that there modified the plans and they’re putting Cinemas in. I believe that the cautionary tale here is at the corner of Haste and Shattuck which was one the location of the Fine Arts Cinema and there was a lot of neighborhood pressure, the developer promised “to incorporate a new theatre into the ground floor of the apartment complex” instead what we have now is the mockery of a fake Marquee which instead advertises what is playing uptown at the Marsh. This in itself is not a bad thing but where the theatre would have been instead there’s one more restaurant and as far as I can tell not a particularly popular one so I feel that this is a really really important issue and I don’t know – I also think that even if they are going to put them back in later how long is it going to take to build this. The whole thing just is fraught with problems from my point of view and I anyway I’m sorry I’m not very articulate but that’s what I wanted to talk about.

Female Commissioner: Thank you.

Max: I want to start out by talking about the reaction of our public who we are supposed to be serving this evening. First of all, I started the Save a Landmark Shattuck Committee because last Thursday because that was the first that I saw a readable public notice about this hearing. I was going to bring slides to show you what the notice looks like in front of the Landmark Shattuck Theatre completely overwhelmed by the NO on R poster there and the sculpting announcement way down on the lower side of that window and the copies from the subway of the EIR down at the bottom underneath a crazed window where you can’t even read the words. This process has not been adequately noticed and I’ll tell you why. So what I did I immediately put up this petition saying Landmark Shattuck Theatre and went over to the Post Office where there was a rally being held to collect signatures from our most active in the whole city of Berkeley – 200 hundred signatures were collected in under 2 hours of people who not only signed that but was shocked because they did not know about the process. We’re supposed to serve the public here and we’re supposed to comment – we’re supposed to have hearings that will allow the public to know about this and bring them in so I want to say something about the theatre, it’s not it’s the Hink’s addition, it’s got many things in it. You’ve heard about the Egyptian
Theatres it’s not old enough to be considered historical by your definitions but I want to say something about the way the National Park Service indicates – I’m a Naturalist I work for the Museum, I work in the ____________ as a Creator and I was also commented on many National Park Service EIRs. There’s a category called Cultural Landmarks as you know and when that applies to Native Americans it includes not only artifacts from the past but ritual objects that are used from the present. I would say to you that the incredible diversity of people who come to our Landmark Theatre – the way that its part of the cultural of Berkeley deserves some kind of protection. We’ve seen too many Theatres lost and we deserve to have theatrical districts, we deserve to have theatrical protection film in Berkeley and in California is of the largest historical significance and the films are being shown here in Berkeley are due to that development of film in California. We cannot afford to lose this theatre. Incidentally the final signatures that were collected at the Shattuck Theatre after that in the 6-hour period included people from every community around us all the way down to San Jose. People come to Berkeley from San Leandro, from San Jose from everywhere. I would be glad to submit copies of the Petition even though it’s not within your prevue to consider those things but it’s important and I ask you to consider what kind of a loss this would be to every single majority community in this town if we lose that theatre that has such a diversity of films, a diversity of people who come, a diversity of communities that bring us business from all around the area. Isn’t business important to us anymore?

Female Commissioner  Thank you [Inaudible].
Max  I will make a copy of the 450 signatures [Inaudible] that 6-hour period.
Female Commissioner  For people who were very surprised and had no idea.
Max  And shocked they had not heard about this. 80% from Berkeley and the other 20% were from everywhere. All of them were shocked maybe 2% that had heard about this process and had read that this meeting here was happening.
Female Commissioner  Thank you.  Lisa Vinabraugh.
Lisa Vinabraugh  Well, I was also shocked to hear that they want to tear down that [Inaudible] it’s a place that I go to with friends often because they show movies that are not shown generally in other places like foreign movies and other movies that are not maybe the most popular generally speaking but they’re very important – they’re cultural movies and we love them and another think about the Shattuck Theatre is that as far as I know I believe it is the only theatre in Berkeley that has total access for disabled people and it’s a Sixplex so it will be a great deficient in the community not to have that ability for disabled people to access the movies and of course it’s in the heart of the Downtown Arts District and as Paul Masna said people come from all over the bay area to that theatre and this statistic that we have developed is at 98% of the local people do not even know about this plan they call it the Hicks
 Female Commissioner: You want this to be passed out.

Steve Finacom: Yes please. Good evening again Commissioners I have a handout that you're getting now its part visual and I'll speak to that in a moment but you have a complex project and document before you tonight. I'm here to address one simple part of it that's the impact on the Historic and Iconic views down towards Campanile Way towards the Golden Gate. As you know, the proposed 194 foot tall building and it is a 194 feet not 180 will intrude into and all purposely compromise this Historic Resource established in 1873 and I have a map to prove that but also in written comments and cherished by generations of Berkeley and Cal students and Alumni and uncounted numbers of visitors to the community as well as those of us who live here. You may be old enough to remember I don’t remember this but some of you may be old enough to remember the powerful newspaper advertisements the Sierra Club ran in the early 1960s when the Glen Canyon Dam was proposed by the Bureau of Reclamation and those ads said simply they want to dam the Grand Canyon, the Grand Canyon and so I want to say to you tonight its almost the same story we can say in astonishment they want to block the views of the bay from the Campanile Way the views of the bay at Campanile. We want to appeal to you to stop this privatization of the unique public view resource, you have the power to do this the process is very simple, first you can affirm that Campanile Way and its views are a significant Historic Resource, you don’t need a consultants blessing to do that, you routinely are presented with properties over 50 years old but not landmarked and has to make a judgment as to whether their Historics and ones who said yes and ones who said no, you said that just a few minutes ago – you said no on that building in West Berkeley. You have that power use it tonight to reaffirm that this a significant Historic Resource and will be effected by this project in an adverse way a significantly adverse way. Second, you can conclude that the EIRs inadequate and that it does not present a serious project alternative that would allow the project but preserve the essential views yet again that’s something that would be very easy for the consultants to do it has not been done so far they could study historic alternative that reduces and reconfigures the massing of the building so the view corridor is actually preserved, it’s not an insurmountable problem since it’s a lower portion of the buildings biggest obstacle in the toolshed a view Preserving Alternative should be a requirement for the final EIR we’ve also strengthened the final EIR it’s not in the interest of the developer for the City to have a final EIR that does not adequately address this issue because that would be a weak EIR easy to appeal easy to challenge in court this is City and the Developer one two create that circumstance presumably not you can cure the problem by
requiring that the EIR be strengthened appropriately. I presented to you with a one page outline of what I would suggest, there are some with components that could be included in comments by the commission tonight and I hope you’ll consider that and I’d be glad to answer any questions you have might have about the View Corridor particularly the issue about the trees and scrubs which is hard to cover in 3 minutes and I wanted to say about this picture I drew this is a 1920s view down Campanile Way before this sort of hodge podge of current vegetation grew up. I’ve drawn in what I think is a footprint of the building the EIR consultant could probably do this better with the exact measurements but no one has done this yet so I had to say it and this I hope I hope this has an impact on you showing the effect this has and again I’d be happy to entertain any questions.

Female Commissioner    Thank you. Jane Edgington and Arleen Silk.

Sandra Guy   I’m Sandra Guy and I was very surprised when I understood that theatre was not going to be there facing onto Shattuck and the idea of it facing onto this little tiny street where we – where people who wouldn’t normally meet each other and are kind of scared of each other at first get to know each, get to be friends, employment opportunities take place and pan-handling opportunities take place and when I was quite crippled the homeless community people helped me out so many times. They’d give me an upside down bucket to sit on when I couldn’t stand any longer, they helped me flag a bus because I couldn’t like stand up at the bus stop when I was in a wheelchair people helped me get into the theatre and when I was with other people taking care of them before I was in that bad of shape myself and I was just leaning on other people’s wheelchairs and taking them in it was such a comfortable place and when I was like extremely skinny and boney like I couldn’t carry my body around on my very painful hip.
### Sandra Guy continued

I could sit comfortably in that theatre and lean back in those loges and I was able to sit there without injuring my poor little sore sit bones and I just really recommend that theatre and I didn’t recognize the description of it with the inadequate dilapidated theatre with poor seating arrangements and bad lighting and so forth. So I thought it was about the theatre down the block. And they’d said something about tunneling under the street so I thought – I had the whole thing confused in the description, even though I’d been following this and why some kind of project like this for a long time. My thought it sounded great. But I didn’t understand what it was about and the fact that I had my, both of my eyes operated and my hip operated on over a period of four years, could’ve caused me to have some memory loss so that maybe I forgot something? But I don’t think so.

### Female (off-camera)

Thank you very much.

### Jane Edgington

I’m Jane Edgington, a BAJA board member and former BAJA President and I’d like to speak about the visual impact on our historic and highly regarded University of California by the proposed high-rise development on Harold Way by an out-of-town developer. And I have a little history of that.

In 1873, the fledgling university moved from Oakland to the prize site in Berkeley, exactly opposite the Golden Gate. The first buildings constructed were North Hall and South Hall, sited to symmetrically flank the pathway west to the fledgling town of Berkeley and the Golden Gate and the bay beyond. So that for more than 40 years before the campanile was finished, the campus already had this new corridor in place.

In 1914, the campanile, designed by distinguished architect, campus architect, John Gaylen Howard, was built, finished in 1915, with the esplanade around the campanile built in early 1916. That pathway leading from the campanile west became known as Campanile Way and to this day, it is walked by hundreds of students, faculties and others every day. I went out of my way to walk that path en route from my home in North Berkeley to Berkeley High because I too love that view of the Golden Gate and the bay.

Now an out-of-town developer from Southern California proposes to build a towering 194-foot building and cut off this iconic view from Campanile Way to the Golden Gate and the bay and I urge you to deny this elimination of this historic view, which goes back to the beginning of the university in 1873.
Female (off-camera) | Thank you.
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Arlene Silk | Hi, I’m Arlene Silk, another former member of the Landmark Commission – in fact, I chaired the first public hearings we ever had in 1975, in which City Hall was made the first landmark. And not only do I think the CIR is totally inadequate, but I think the whole project is a travesty. I mean this is the most historic block in our historic street save of downtown. It’s been recognized by grants from the San Francisco Foundation, the National Trust, the State Office of Historic Preservation. It’s a main street project of the National Trust and the design guidelines which they, the project is supposed to follow which is this, was a project of, was paid for by the National Trust as part of our main street program. And it’s out of scale, a smaller scale was never considered – it has a devastating impact on the historic resources, it doesn’t obey any of the design guidelines for new construction and it has an impact on the surrounding historic buildings – it’s surrounded by buildings that are on the National Register of Historic Places and city landmarks so I urge you to reject the CIR and I don’t even think this building belongs in the site. I mean we’re all acting as though they have a right to build it and I don’t think they do.
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Female (off-camera) | Edith Halbird and Erin Dean.
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Edith | I grew up in Richmond as a teenager and we envied the City of Berkeley because there were so many theatres as well as other cultural entertainment and so when I moved with my family, well, created a family, in 1966, we went to the Rialto, to the Oaks, to the North Side, to the Act 22, to the, well this one here on Shattuck and Fine Arts, and we went to the PFA – I remember seeing Paul Robeson movies there. And did I say Act 22? Well, all of those, and you see, those are all gone. Absolutely gone. And the only ones that we have in Berkeley that are really of any quality and one of them is doubtful, the UA is doubtful, and we have the Shattuck and we have the California and if we go all the way past Ashby, we have the Elmwood. We need this kind of entertainment in Berkeley. The Shattuck has not only the best movies but, you know, the idea of an affordable dinner and a movie would be lost, if we lost the Shattuck Cinemas. And that includes, of course, the senior rates, or matinees, or whatever, it’s just a place to go, you know, for movies. You know, even on holidays. So I remember the old Hinks and I liked the old Hinks, I got a couple of coats there, you know, way back when, when they had sales, but nothing is as great as the Shattuck Cinema and we need to keep it. Thank you.
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Female (off-camera) | Thank you.
Hi, my name’s Erin Dean, I’ve actually never spoken to a council like this so thank you for hearing me. I actually moved, we bought a house and moved in a year and a half ago. We’re down at Jefferson and Bancroft, we’re right catty corner to the synagogue, and it was kind of like my dream come true to actually be able to afford to buy a house here and I got to do it only because I had two tragedies – my brother and my mother died back-to-back and they were frugal Oklahomans, public school teachers and they left me some money. And that’s the way I was able to buy a house here. And I was absolutely devastated when I learned that the Shattuck Cinemas might be destroyed. I’ve been following what’s happening with the Post Office very closely and that upsets me very much, and I also know that the Ace Hardware, that whole area is gonna be destroyed. And when we were doing, we had a big remodel on our house and we actually went to Ace Hardware, on foot most days, and I walked to the Vacuum Center, and I’d take my little bag and I get to live the Berkeley dream. And when I learned that the Shattuck Cinema, that was part, it’s part of our life here, that it might be destroyed, I, seriously I just wanted to cry and scream at the same time.

So I had five points. And the first one was, I am a progressive. I consider myself very progressive but I also think progressives look forward and they also respect the past. And so I’ve seen postings on Berkeley side around the whole R campaign and the Post Office Campaign and the people are going, progress- these old gray-haired people, they don’t know, they’re not progressive. Well, bullshit. I’m progressive and I want the old stuff maintained. There are spaces to build the new glass and mirrors and I don’t want it there. OK? I have the solar panels, I drive a 15-year old car, we have a 3,000-gallon water tank and I’m planting a certified butterfly garden, OK? And I don’t want…

The second thing is, I want to say, great cities protect their architectural heritage. I’m from Oklahoma originally. I lived in Boston for 10 years, I studied Russian, I got my PhD in Russian, I lived in Moscow and Prague. And I really, I just, I want to say that when my friends come and visit me, I literally walk them down to downtown Berkeley, I will stand on the corner and I will literally point out the three movie theatres, because not very many cities actually get to promote, have that anymore. Netflix is killing our movie theatres. And I go, “Look, isn’t this cool?” We have this marquee, it is gorgeous. And when you walk in, it just feels so regal. Like I feel important when I go to the Shattuck Cinema. And so I imagine the developer’s gonna say, oh we’re gonna replace it with this great theatre. Well, more bullshit. I don’t want to go to a state-of-the-art theatre – excuse me for cursing, I feel so strongly about this. State-of-the-art is gonna change. I actually work in the
field of technology. I work with Apple. I work for them, I work
with them. Technology changes all the time. State-of-the-art 50
years from now is not gonna be state-of-the-art anymore. So if the
architecture that’s in this building, when you walk in the Hinks store
– it touches you. It lasts forever. So please save it. Once it’s gone,
it’s gone. We can never get it back and the glass and mirrors that
they’re gonna build, or they’re proposing to build, that’s replaceable.
We need to maintain our essential services, again Post Office – they
announced a buyer yesterday. We’re losing the Ace Hardware store
and what’s gonna happen with this? I walk there.

And then finally, where there’s a will, there’s a way. We can find a
way around this. My husband and I, when we did our house, we
actually didn’t build up. We built down. We bought a cottage,
a 2-1, and we didn’t want to ruin the view of the street, because I
think that’s wrong. And we had the funds, so we built down. And
so we actually didn’t raise the house and we got a whole new story.

So my final request is to extend the time for public comment. I feel
like this really has been rushed, it’s been a surprise to most people
here in the room and, like they said, when we gathered the petition
signatures, so please postpone this, give us more time to get public
comment, to collect it, and then when you come back and make your
CIL review, you can have more input from the public. Thank you.

Female (off-camera)  Thank you very much. John English and John McBride.

John English  OK. First I should say that I very much support and agree with what
people have said about the cultural resource’s importance of the
Shattuck Cinemas. I have some rather different points to make.
First, the draft environmental impact report ignores the elephant in
the room. What I’m referring to is the obvious fact that on these
terribly important landmark historic property, the proposed 12-to-18
story addition would be grossly out of scale. This hugely
disproportionate addition would actually violate the downtown area
plan itself and the Secretary of the Interior’s standards for the
treatment of historic properties.

The draft EIR doesn’t even seem to recognize that as a major
impact. I think that whoever wrote the roundup ______ to the draft
EIR, is sort of pretending that some of the new language in the
CEQA guidelines new rules on in-fill EIRs somehow means that you
cannot or need not address this kind of impact, extreme contrast in
scale. They are trying to read way too much into the in-fill EIR
rules.

Very similarly, in the discussion of alternatives, there are two
alternatives posed but neither of them is greatly less involved in
massiveness than the project itself. There really should be an
alternative that does greatly reduce the mass. I think one such
alternative would be one in which the height of the northern half of
the project would be limited to 60 feet. If that were done, that would
help to avoid the significant impact that Steve Finacom mentioned
on the terribly important view corridor vista down historic
Campanile Way toward the bay and the Golden Gate.

Oh, I could go on and on, there are so many things to say. Actually
going back to the question of the Shattuck Cinemas, as you walk
into the cinemas from the Shattuck Avenue sidewalk, if you look
overhead, you’ll see in the, you’ll see some ornamental ceiling
plasterwork, which is actually a remnant of the old Hinks
department store, and _______ reminds of that. Well, actually one
of the appendices to the draft EIR, in one of those appendices, the
consultant thereof, says that that ceiling __________ is a character-
defining feature of the building. And yet, if you read the main part
of the draft EIR, it recommends that that ceiling be just given away
to salvage people to remove from the property. Incredible. What
can I say? This great, I could go on and on, as I said, but this draft
EIR is terribly insufficient. Thank you.

Female (off-camera) Thank you. Do you want to speak later or just… OK. Daniela?

Daniela All the people who spoke before me said very eloquent things and I
don’t want to just take your time by repeating everything. So I
won’t say any of that. I will just go back in time before Hinks and
before the Shattuck Hotel – that block was the original Francis K.
Shattuck home and estate. So it’s really the most historic block in
the City of Berkeley. The context there is overwhelming and that
needs to be considered. Of the three alternatives, the contextual one,
the so-called contextual one is the least offensive but it’s way, way,
too tall and too bulky. If they brought that down, at least it’s not
blocking views as much as the other alternatives. So I will stop
here. Thank you.

Female (off-camera) Susan Cerney?

Susan Cerney OK, lots of what I was going to say has already been said. But there
are lots, it’s just this opportunity site that happens to be in the wrong
place. And in that context of the historic Shattuck block, the library
is sitting on property that Mrs. Shattuck donated for the Carnegie
Library that used to stand there, that was built in 1912, I think, and
that was torn down for the present Old Library that’s standing there,
the Art Deco one. So this 18-story building is going to be right
across the street from the library. I mean there, there’s so much
going on around that site of historic significance that it’s just the wrong building in that location.

I wanted to say something to Erin. When you look up to see the hills from your beautiful new house, you will run right into the back of that building. That building – Campanile Way is not being replaced but it’s going to have an effect on views. It’s going to have an effect on views all around it. And quite a bit from the west, where the buildings are shorter. Thank you.

Female (off-camera) Thank you. [unintelligible name] Sorry I’m not, pronunciation.

Nadesan Permaul Nadesan Permaul. I come to you as a long-time faculty member in Rhetoric and Political Science in Berkeley. And I’m also the former president of the California Alumni Association from 2003 to 2005. I come to ask you to reconsider the massing of this building and to take into account the fact that a hundred years after the campanile was built and 26 years after the Park__________ plan gave the Hearst Plan the template upon which the Berkeley campus would be sited, that we would allow this large commercial building to completely obstruct the view from the Berkeley campus. Remember that the BART station in Berkeley is one of the two largest tended stations in the East Bay, bringing hundreds of people here on a regular basis, who come to the restaurants and to the art district in Berkeley but also to the Berkeley campus, and to visit it. And if you go on any weekend, any time during the day, you will see people walking up onto the esplanade, taking photographs from that site, down through the Golden Gate. It’s a beautiful, gorgeous site. After the graduation ceremonies of my department, I get to walk down in my academic robes, as I did when I got my PhD at Berkeley, and go to a reception on the esplanade, and then I go and stand with my students as they take their photographs looking out to the Golden Gate. Why would we want to destroy that? Why would we eliminate such a beautiful and historic view for something that is only going to add the oversized blight of cities in much of America. Let’s do this like a European city, take the context to be more gracious. Make sure that it fits in with the environment in which it’s being constructed and preserve the quality that the City of Berkeley has always stood for. And I think that you have the power and the authority to do that.

So this is my 47th year at Berkeley. I came as a skinny freshman. I’ve lost that. But I still enjoy walking as I did with my son when he graduated from Cal, taking him to that site, and taking him to the [cough obscures] and there are many generations to come who will be enjoying the view as we have over the past hundred years. And I urge you, I plead with you, don’t lose that. Please ask the
developers to reconfigure. We’re not opposed to development. But
do it in a manner which is consistent with the quality of life in the
City of Berkeley and the values that we have historically represented
here. Thank you very much.

Female (off-camera) And John McBride and Carey Olsen are the last two.

Speaker (elderly female
with flower in hair) And don’t forget Berkeley City College.

Female (off-camera) Thank you.

Speaker (elderly female
with flower in hair) And I think we should continue this.

Female (off-camera) We can’t. John McBride? Then Carey.

John McBride Carey, you want to take it first and I’ll wrap.

Female (off-camera) Welcome back.

Carey Olsen I miss you all. My name’s Carey Olsen and I served two terms on
this commission, 16 years in all. But in all my time, I’m very proud
of being a Berkleyan. Thank you all for coming out tonight. It’s
hard to come out to a meeting, it’s hard to speak and it turns out, it’s
really hard to find out there’s a project coming up. So I’m not on the
commission and I don’t have to be polite so I can tell you all that the
developer’s representative for this project is the very same person
who came up with the idea for how to tell the public when there’s a
project. And I’d say the job wasn’t done.

But some of us have known this project was coming – in fact, I was
still on the commission when I first got an inkling of this project and
we got a presentation and Steve ________ spoke to us and told us
about Campanile Way. So the next morning I went to Campanile
Way, which I walk to regularly anyhow, because I live in the flats –
I don’t have a view. I went to Cal, that’s my view. And as I was
standing there taking pictures, I looked to my right and there’s one
of the other developer’s representatives. Obviously they hadn’t
considered what the building was going to do to the view.

So I’ve spent considerable time going up there and looking at that
view and I’ve given you pictures. But what I’d really like you to do
is to please go, on a clear day, and stand there and experience it for
yourself. Because the picture doesn’t do it justice. That’s Alcatraz.
We will not see Alcatraz. I don’t care whether it’s an 8-story
building or a 12-story building on that corner. We will not see
Alcatraz anymore.

So the history of this view actually goes back to when Frederick Law Olmstead of Central Park was working in Mariposa County and he was asked to come view the future site of the university – this was in 1865. He produced a report in 1866 and he recommended the axis. The axis stayed. And I just learned this afternoon as I was reading things that, in fact, the axis was continued up to the cyclotron, when the cyclotron was built, it’s built on the same axis. Pretty amazing.

So here we are about to destroy it. And if you turn the page, you’ll see this is what happens all day long – people come to see it. I’ve stood there and listened to them. “Oh my gosh. Look at that. I can see the bay. I can see Alcatraz.” Well, not for long.

On the last page, I just drew a line. A simple line. This is the approximate line of sight. And unfortunately, it goes across this opportunity site. So I ask you to please reject this EIR. We all know that EIRs are made to satisfy the needs of those who want to build, not the rest of us. I don’t know how to put it into words, but I grew up in Berkeley. And to me, the Shattuck Cinemas, which played progressive films that I want to see, is part of a longer tradition of the Cinema Guild and the North Side Theatre, and the fine arts, which they promised us they were gonna replace, and I was on design review when they promised that and they didn’t do it. Different developer but still a promise not kept. I do think this developer will try and move heaven and earth to keep cinemas there, to keep you guys quiet. I think they’ll be cinemas there, if I had to predict. But you just never know. And in the meantime, it will be disrupted, just like they’re gonna disrupt all those other businesses that we all care about. And I think those of us who care about them need to say, “Enough.” Thank you, and I do miss you all.

Female (off-camera) Thank you.

John McBride Well, I guess I’m gonna have to recur where I spoke earlier, I mean it’s back to Pauline Kael to the [cough obscures] cinema. We actually have some marvelous situations in Berkeley that the University art museum will be moving downtown and they’re gonna have a cinema, but it’s not the same the same thing as having the texture in the town itself. I guess, just staring at Steve’s photograph, I have to say, we’ve got a red herring here, and we’ve gotta get that stinking red herring out of the room. That’s gotta go. And I think what John English said about the EIR is certainly within your purview. This just, this landmark that ________ will not exactly decide the fate of this project. But you have the ability to make the
hard questions on, put the hard questions on the table. They really do not have proper alternatives. I think that’s what my colleagues have been saying very strongly. You’re not going to finally determine the nature of the project – that’s gonna go on and ________, God knows where it’ll go on. But you can say there are things here that cannot be mitigated, things that are not being discussed, and that they’re not the proper alternatives. And that has to be done. And really, only this group can do it because that’s just the way it works in this town. The [cough obscures] commission has a very, very important rule of talking about that texture, you had some rather contentious issues tonight before you about an original mural or a replacement mural. We have a case here where we still have a site and a view intact. And when it’s gone, it’s gonna be gone. And you look at places in San Francisco, where I was born – like you have the Fox Theatre, which everyone now regrets losing – and you have a wind tunnel there. And now we got upper market that’s gonna be this glorious, glorious canyon of technology. It may or may not prove to the case. I don’t think it’s finally in the spirit of San Francisco that that’s going to really succeed, but they’ll accommodate it. But we don’t have to do those things here. And in the newsletter we just published from BAJA, I tried to outline in a regional way, because if you look beyond that site, you’ll see the Presidio, and at the Presidio, there were inevitable developments that will happen in a year or two, there’s gonna be a huge museum – it didn’t happen, it went back downtown where it belonged. And it’s a stronger museum because the Fischer donation didn’t wreck the Presidio, it did not wreck the parade grounds, it did not impede the Officer’s Club, which just reopened to incredible acclaim. We have the ability here to say no. It isn’t necessary to do that.

The other thing was, you’re biased, George Lucas had to have his cinema, or his bloody museum in the Presidio, and the trust thanks to Nancy __________ and people who know what ________ said no we’re gonna wait until Doyle Drive is done until that green is regarded, then we could make a decision. There’s no reason this building has to go up in the way it’s been proposed. There’s-----
continued

time to make a better plan, and have things thought out. Yes, there will
probably be some development. But it can be much more appropriate.
And this Commission is the starting point of this reversing the
inevitable, that saying you can’t do it. That’s what you gotta do. Just
say just can’t do it. Gotta think it through. Work it out. Get something
better. Because yes, we can__________ much, much better. And that’s
why we’re here tonight, from Baja and the rest of the community. I urge
you to take that initial stand and reject this EIR.

Austene Hall

Thank you. That is all the public comment cards I have. Did I get
everyone who wanted to speak?

Okay. Thank you.

You got 30 seconds.

Many of the statements tonight have talked about the insufficiency of
the EIR and the insufficiency of the public process. I urge this
Commission to do what they did for the mural, uh, for a CIL, and fold
this over until the next meeting so there’s time for other citizens to have
their just public comment.

Officially close the --
I might just note that on November 13th, this will be _______ that, as
well, on the November _________. That’s a different kettle of fish.
It’s another opportunity.

It is another opportunity, and we can go with, the timeline is short on
this, as it usually is. The public hardly ever gets much of a chance,
which is extremely unfortunate. I would urge everyone to go to every
meeting, including the ZAB meeting, and the DRC meeting coming up.
It will be discussed at both of them. Um, okay.

Tell us when and where.

DRC is the third Thursday.

It’s the day after the EIR is supposed to close. It’s on the 20th.
The ERC’s not – the ERC’s not _________ now. That’s the next
meeting on the 20th.

We’re commenting on the EIR more, aren’t we?

So the ZAB meeting is on November 13th, and it’s usually at 7:00, and
it’s usually in City Hall, and they will be commenting on the same, uh,
giant document that we have. So your comments are equally
appropriate at that meeting. The close of the comment period is
November 19th, so I urge you to get to the 13th. The meeting tonight is
being recorded, so your comments are being recorded, but you can also
send them before the 19th to City Council.

Yes, it’s a very good idea to write your comments and send them in,
even though they are being recorded. And thank you everyone for your
comments. Okay. So now, discussion of this esteemed group.

Okay, I will start. I hope – I hope – I’m kind of all over the place. Um,
I would like to publicly register, uh, my, uh, complaint about the insufficient EIR. Um, I would also like to record – and this is based mostly on comments from tonight and also from Steve Finicom’s comments in this document about the insufficiency in the public process, which has been going on for a long time. But Steve actually records them in great detail. Um, this project is a travesty. It, visually – the main project, and even the alternatives – visually overpower in bulk and proportion the hotel as well as the surrounding landmark buildings, such as the Elks Club, Armstrong College and the library. It dishonors the Shattuck Hotel’s architectural character, and it is, as Arlene Silk pointed out, the most historic block in our historic downtown and the most important part of our Main Street program. One speaker tonight mentioned the word “gracious.” And I do believe – I’m an optimist, like Don McBride feels, to be an optimist, that we can have a gracious development there. But this is a greedy development. This is taking advantage of every single loophole and going beyond, I believe, what is allowed even under our very overly generous new downtown plan. I’m going to cite two things. I believe this violates the Secretary of Interior Standards for the Treatment of Historic Properties. Quote, at a minimum, historic facades should be maintained and the scale and character of additions must be compatible with the historic building. That’s violated here. I’m also – I also believe that it conflicts with our current downtown Berkeley design guidelines, which say the façade should reflect rhythm, scale, proportion and detailing of the landmark property. None of this is in the proposed development. Okay, mitigations. Um, the EIR is severely lacking in, uh, area for CR-1, mitigations. We need to know much more about their demolition and “salvage.” I don’t believe in any of that, and I, I – anyway. Okay, CR-2, uh, relates to my comments on bulk, and the glass that I mentioned before. CR-3, there needs to be much more studies of the Campanile Way. It is a significant historic resource and will be impacted in a significant way, and the EIR is inadequate in that no alternative is given to preserve the view shed. You know, their alternatives don’t preserve that. Um, the preservation alternative one, and the contextual alternative, um, are inadequate, because they’re not limiting the main problem, which is the bulk and the height of the project. Um, so the massing issue needs to be, um, scaled back. And finally, even though I’m not a patron of the Landmark Shattuck Cinemas, um, I do want to say that what people have said tonight is very, very important, and I think you should communicate directly with City Council. The idea that we are destroying yet another artistic, cultural resource downtown when we’re supposed to bring arts downtown is ridiculous. And it cannot be replaced, and the inside of it certainly cannot be replaced. I mean, maybe they could build another movie theater, but that’s not the point. I mean, this is a very unique set of six movie theaters. Um, so it’s very hard to recreate it and fakely recreate it. And, you know, we’ve learned,
sadly, we lost the Fine Arts Theatre and now we have a faux marquee. So, I don’t trust them at all, and I encourage you to keep attending meetings and speaking out and thank you also especially for all the people that showed up from Baja because, um, that’s very important. Thank you.

Austene Hall
Thank you. Anyone wanna follow that? Are there other areas that people want to bring up?

Rose Marie Pietras
Well, personally, I just don’t see why the developer cannot work with the community and design sections of that building that won’t impact the Campanile view. I mean, I’ve said this before. I mean, I really don’t wanna see Berkeley, my native town, take the mood of the country, and become greedy, and have a sense of entitlement. People are coming in here, and they seem like they have this sense of entitlement. They just come into our town and build and then leave. And then charge, for a 750 square foot apartment $3,000 a month rent. This is happening. This is happening. I can – I couldn’t believe that. So, I really don’t wanna see that happen. And I don’t want to see the theater lost, and I had told that to Mark Rhodes the very first night that they said they were gonna take it out. I couldn’t believe it. Why are you taking this theater out? Well, it’s not, it’s not considered a landmark. It’s not 40 years old yet. And I said, well, give it a chance, it will be soon. You know, how old is it, anyway? How old is that theater?

'88.

Rose Marie Pietras
When was it built?

Speaker

Speaker
That’s 27 years.

Rose Marie Pietras
How far do we have? Four more years?

Speaker
Fourteen more years.

Rose Marie Pietras
Fourteen more years. Okay. So, I mean, I really don’t see why the developer cannot work with the community, set that building back, come up with something. And I, and I tend to agree with Anne. I really don’t think it’s consistent with the Shattuck Hotel at all, in terms of compatibility. In terms of bulk. I mean, I mean, I’m not, I don’t favor modern buildings as a whole, because I feel that Berkeley is becoming like this big modern-looking city, and we’re not about that. I mean, look at Bruce Adkins’ building, look at the old Palmers building, look at the old Metropol, or the Tupper & Reed building. Where are those buildings going? We don’t have many of them left. And that really frightens me, ‘cause I really don’t want to see a Manhattanization of – even though I love New York – but I just, I don’t want to see that in my town. I don’t mind development if it’s good development. If it’s tasteful development like some of our other people have said here, give a little European flavor to it. Yes, I believe that that’s a very good idea. I mean, we always were compared to a European town, but we’re not gonna be if this keeps up. So, that’s all I have to say.
Thank you.

Christopher Linvill: Um, the statement of impact CR-3, the westly views from Campanile Way are not historical resources in their own right. That just is an assertion that, it seems like, well, it seems self-evident to me that they are. So, that’s a, that’s a sort of apriority premise that sets up this whole argument about how we should – how we’re supposed to think about the obstruction of the views. But I think the premise is, is pretty flawed in its, in its statement in the first place. Um, maybe I’m missing something about that, and maybe that’s what Mr. Finacom was speaking to about, you know, we don’t, we don’t have to assume that because it hasn’t been bestowed in this from some place or another that that’s actually the case. It just, it doesn’t seem evident to me at all that that is the case. And I think a lot of false _________ followed from that, accepting that statement.

Sally Zarnowitz: So, are these questions that you have or statements? I mean --

Christopher Linvill: Well, I would say, um, I would want to know what the rationale for that statement is.

Sally Zarnowitz: Um, so, the Campanile Way, itself is considered an element to the cultural – to, you know, cultural landscape, which is the classical core? I mean, I think within that, the Heritage Plan itself defines character-defining features. This Commission is fairly familiar with what a character-defining feature is. And the view is defined as a character-defining feature. And the question would be whether any changes to that view, uh, short – and there are four viewpoints given to you --

Christopher Linvill: Sure.

Sally Zarnowitz: -- in this document, whether those changes would be so significant as to render the Campanile Way, the classical core, no longer _________.

Christopher Linvill: Why is it subjugated to a feature?

Sally Zarnowitz: Pardon me?

Christopher Linvill: Why is it subjugated to a feature, rather than a resource in and of itself?

Sally Zarnowitz: If you define a character-defining feature by the Heritage Plan, I mean, that’s how the, and, you know, we could speak with consultants _________. It’s defined – the Heritage Plan – the document states that the Heritage Plan defines these character-defining features of Campanile Way, and the views – plural – are part of that.

Christopher Linvill: But that’s – right – but that’s, so that’s done. There’s no --

Anne Wagley: But we could look at that through – do you want to answer?

Christopher Linvill: Okay, then, I guess I’m questioning – something seems faulty about the analysis.

Ann Wagley: Okay, Steve, Steve --

Austene Hall: Can you clarify that for us?

Steve Finacom: Well, so the simple, the simple answer to that --

Rosemarie Pietras: Can you come up here?

Steve Finacom: The simple answer to that is, you can define it yourself.
That’s what I was saying.

As I said earlier, properties that aren’t formally designated are brought to you all the time, and you make a determination. And, so you can, you can make that determination. The EIR sort of seems to portend if you’re constrained to do something, or to respect something, that a consultant said, that a consultant said, that a consultant said, based on --

Excuse me, has the public comment already been closed, or do you need to open it again?

We just had a question.

I was responding to a question. Okay. But if it’s gonna continue, we need to open it again if the questions are gonna continue back and forth.

Okay. I think we got clarification on that, and that was my question, why, what precludes us from recognizing this as a significant historic resource? The view corridor itself.

If I could respectfully note, that if were to be the case, the Commission would need to provide evidence, and analysis of, among, you know, for themselves, as to why the view itself would be considered a historic resource versus the character-defining features – one of the character-defining features of a larger historic resource.

What kind of evidence would that be?

What you seem to be saying, so --

What kind of evidence would that be?

How you would determine that or how you would consider the view itself to be a significant resource in and of itself and how any alteration to that would render Campanile Way and the Classic Core no longer eligible for the California Register. That would just be the threshold under CEQA. Now um the project itself and how it effects this view is a different issue but under CEQA there is a threshold of how this affects the view as a significant impact. We also have the consultant, the prime consultant and the historic consultant who can you know join me at the table to answer any of these questions but it’s important to understand these not to argue the point as to the accurateness but to understand the ramifications of the environmental document and if there are comments the board wishes to make.

Well I mean it’s a one of a kind view there is no other view any other place in the world that has that view right?

I also want to point out—so I just want to point out in the document the Commission has seen the visualizations, they’ve seen that there are 4 visualizations and 4 points right and from the farthest north the impact is greater.

I understand that I- I questioned him last time at our own meeting about that. That when you move a little bit, that – you’re talking about those pictures there?

One of the problems with their analysis in the EIR is that they also whell the trees are in the way but trees die, trees get cut down, in fact I think
some trees may have died already in this photo they have, and this view corridor as an element unto itself is part of the bigger historic resource but as an element unto itself it’s something in Berkeley that extends from the campus all the way down to the golden gate and beyond. We can look at that as an historic resource, and from this commission can we just determine that?

Rosemarie Pietras  I don’t see why not
Austene Hall  I don’t see why not either.
Rosemarie Pietras  Why don’t you make
Austene Hall  I can’t make a motion
Anne Wagley  I mean if we need a motion I’d be happy to make a motion that the view corridor from the Campanile to the Golden Gate Bridge is a significant historic resource and that it is significantly impaired by this project. I mean we’re not here to make a motion this is just a referral but I’d be happy to do that and I think the evidence we have tonight from the University professor I think he’s left, Steve Finacom’s extensive commentaries in the draft EIR, um Carrie Olson’s photographs of just on a random day of people standing there looking at it, um, I mean this is all, we weren’t expecting to do this but it is significant and I’d be very happy, that’s a motion anybody wants to second

Rosemarie Pietras  I second that motion, I second that motion
Paul Schwartz  Well, can we have a discussion on that?
Anne Wagley  Sure
Paul Schwartz  I think it’s premature as have you looked at the view
Voices  Oh yes many times
Rosemarie Pietras  We’re natives
Paul Schwartz  And um, I’m just wondering can we request that the campus architect come and give us their opinion about the plan, the Campanile view, the presentation,

Anne Wagley  They’re not, they’re not a party to this
Rosemarie Pietras  They’re not a part of this
Paul Schwartz  Well we have Steve representing the University
Anne Wagley  No he’s not representing the University
Austene Hall  No he’s representing himself
Steve Finacom  [Inaudible] representing university
Paul Schwartz  Well we have a professor of political science and you’re citing him as an expert so I think we need
Anne Wagley  No he came with historic documentation of the view to talk about it
Paul Schwartz  Yeah no I understand but I think we need somebody from the University here from the architecture department maybe their main architect or the buildings deparmt? Perhaps their lawyer, Michael ___ works for them.

Anne Wagley  Nope
Austene Hall  That would be lovely except our time is, the timing is
Speaker  I don’t think we have the time
Paul Schwartz  No but for us to take this drastic step
Anne Wagley  This is not a drastic step we say this all the time
Paul Schwartz: It is a very drastic step because it basically kills the project.
Anne Wagley: No it doesn’t kill the project at all.
Rosemarie Pietras: No it doesn’t kill the project.
Paul Shwartz: No that’s your goal that’s quite clear.
Austene Hall: That’s ridiculous.
Rosemarie Pietras: No it isn’t.
Anne Wagley: I said, OK I said.
Paul Schwartz: Well for one I think this argument about the view is a red herring I’ve been there and I’ve looked, the trees block it the vegetation blocks it. And you say well lightning could strike the trees it could knock the tree down [inaudible], but the view is very minimal [inaudible].
Anne Wagley: It’s the first time you’re not concerned about a view corridor [inaudible].
Rose Garden: [Inaudible] Steve who I respect very much and Carrie who I respect very much giving us photos with what they’ve drawn in as a blocking of the view but that’s not professional, it’s not professionally done, so you’re asking that we buy this hook line and sinker.
Anne Wagley: No you can vote against it.
Austene Hall: You don’t have to vote for it.
Anne Wagley: You can vote against it. I’m saying that this is a view-
Paul Schwartz: I would vote against it but what I’m saying is I think you’re jumping the gun on this.
Austene Hall: It’s being recognized as a significant historic resource and
Anne Wagley: And it was discussed in his
Paul Schwartz: [inaudible] significant historic resource at the time the campanile was there when the view was created the golden gate bridge was not there.
Rosemarie Pietras: It was [inaudible] the bay.
Paul Schwartz: It was a view of the bay.
Speakers: Inaudible.
Paul Schwartz: Well it was called the Golden Gate the bridge was not there.
Anne Wagley: OK I don’t know whether you’ve
Paul Schwartz: No I’m not done you had your chance to talk. If you climb the stairs you are how many feet higher than when you’re at the base of the stairs? It doesn’t obscure the view from the top of the Campanile. It doesn’t obscure, it doesn’t obscure the view from the top of the stairs. It
Speakers: Yeah it does yes it does.
Paul Schwartz: Oh is that where you took that from the top of the stairs? Not the base.
Speakers: No.
Speakers: Not the base the top, although it’s actually bad at the [inaudible].
Anne Wagley: OK the reason I’m I’m doing this motion is that
Paul Schwartz: I mean [inaudible] development in downtown Berkeley would be blocked through a corridor from the university all the way to the bay is that what you’re saying? Nobody will ever be able to develop in downtown Berkeley on this axis.
Speakers: Right.
Paul Schwartz: So that’s what I’m hearing.
Speaker: Just like you would like to have

Paul Schwartz: So the City of Berkeley becomes a poor step sister to the university and the university controls the city of Berkeley and how it can be developed.

Speaker: It usually does

Speakers: [Inaudible]

Anne Wagley: OK I would like to go back to my rationale for uh this motion which is um the view. I don’t know whether you looked at this but this issue is discussed as CR-3.

Paul Schwartz: I looked at it I looked at it thoroughly I’ve been at the base

Anne Wagley: No I’m talking about the EIR. The document. Here ok on page 4.1-33 you will see this discussion and I am elaborating that we consider as the Landmarks Preservation Commission, we consider the view, just as you went on about the Rose Garden many years ago, the view itself to be a significant to be a significant historic resource which must be developed. And Rosemarie has seconded my motion.

Paul Schwartz: The Rose Garden [inaudible] far more impaired

Paul Schwartz: What is the motion again? I’m not even sure what your motion is.

Anne Wagley: That the uh the view corridor from the Campanile downtown is a significant historic resource which should be protected.

Austene Hall: Motion made motion seconded. Discussion?

Christopher Linvill: Um. I think I don’t feel I don’t, I don’t know what protected would ultimately mean, cause I don’t, I’m not trying to I’m acting in good faith on this. I do feel like due consideration is not given with the with the premise that it’s not a resource in it’s own right. And I I think it’s a faulty starting point.

Speaker: And that’s [inaudible] so if it’s recognized as a historic resource

Paul Schwartz: Maybe you could make your motion to be that we find the environmental impact report to be deficient in the following manner and then state how it’s deficient

Christopher Linvill: Well I

Speakers: That would be an additional

Anne Wagley: OK I will go back. OK that the EIR is is deficient in that it doesn’t recognize that this is a significant, the view corridor is a significant historic resource and this development significantly impedes the historic resource and the EIR is deficient in that no alternatives are given to preserve the view shed.

Paul Schwartz: Would you withdraw the part of your motion that says the building significantly impacts, cause I’m not sure I’m there with you on that. I’m not sure that’s been proven other than some amateur drawings

Anne Wagley: OK I could withdraw that and just say that that it is impacted and it, the EIR itself is inadequate because no alternative is given to preserve the view shed whether it’s down there or up there, in red or in white.

Paul Schwartz: What percentage is being impacted?

Sally Zarnowitz: And of course the Preservation Alternative does reduce the height of the building in that corner and that, that is stated in the document

Speaker: But I don’t know if that’s enough
Speaker: It’s still about 10 or 11 stories.

Sally Zarnowitz: Right but it reduces it and the document does state that.

Austene Hall: Right it does.

Sally Zarnowitz: And when you’re talking about the view itself and you’re on the, you’re looking at figures 4.13 is that correct? Through 4.17? You’re considering how the project would impact those views from the four different points?

Austene Hall: Yes, they’re from the top of the stairs and there are four different points at the top of the stairs I believe.

Sally Zarnowitz: And so the motion um, has been altered to say that it’s not significantly impacting.

Austene Hall: It says there is an impact. Right? How did you change the wording?

Paul Schwartz: Well she had significant impact and I don’t think that’s right especially with the vegetation.

Austene Hall: Well she took that out.

Rosemarie Pietras: But that’s permanent the trees aren’t.

Anne Wagley: I’m more interested in the statement that the Campanile Way view corridor is a significant historic resource which should be preserved.

Austene Hall: That has been seconded and, any more discussion? It’s saying that the EIR is inadequate and they need to look at the view corridor as a significant historic resource as part of this EIR and come up with alternatives if that is what [inaudible]. OK. Right?

Anne Wagley: Right.

Austene Hall: So all those in favor of the motion raise your hand.

[6 for, 1 against, 1 abstain]

Austene Hall: OK, one thing down. Um, now, other comments regarding this EIR on the Harold Way project. I heard a lot from the audience, regarding the massing of these buildings, and the fact that they are surrounded, this building, or series of buildings all together um are surrounded by very very important historic resources, which is absolutely true. There is no requirement from us that we say yeah sure you can build here you can tear down a significant historic resource which is a landmark in Berkeley and put it next to all these other landmarks. This is the wrong site for this building in my personal opinion. Other opportunity sites where this building perhaps could go, this is absolutely the wrong place for something as big, bulky, tall as what has been presented here. It does violate Secretary of the Interior standards in ways that Anne has brought up that um was brought up at the DRC meeting, so those will be submitted. The Downtown design guildines it violates about, almost all of them. Um, and I can probably write a letter personally that would outline each one of those. And I don’t think this EIR adequately looks at that massing, at the lack of outdoor space, at the lack of public space, at the lack of using if they were to build there of using the Hink’s building as part of the design, those windows have been painted out but they’re very cool kind of industrial windows and you could use that to the advantage of this building instead of ignoring them by completely...
obliterating getting rid of them and building a new building there. Um, so I think this EIR is inadequate in, in that they really did not look at the massing very much. They did do alternatives, but they’re still 18 stories and 12 stories. They’re a little better, the contextual one is a little better, I tried working with on one that was a combination preservation contextual so that it worked a little more with the environment, but because this is a developer who wants to make big money off of this, with many many apartment buildings, bringing down the height would to me make it scale better in the neighborhood that it’s sitting in, and I don’t know that they’d ever go for it but of course I would bring down the height of the, and make it more interesting. I think the fact that it blocks all the views from the Shattuck Hotel is a travesty, um, that’s a very very important building for us and it, this has taken away a huge amenity of that building. Um, I could go on, I think having about, what do we have, 3 or 4 impacts here is um, maybe 5, is just not good enough.

Paul Schwartz: Can I comment on the blocking of the views from the Shattuck Hotel?
Austene Hall: Of course you can.
Paul Schwartz: Um, what percentage of the windows of the Shattuck Hotel would have their views blocked, you think ten percent? Twenty percent?

Austene Hall: I think it’s a hundred percent.
Paul Schwartz: A hundred percent?
Austene Hall: We can ask the --
Paul Schwartz: But you’re also creating a building with permanent residents who will have fantastic views.
Austene Hall: Yes.
Paul Schwartz: The people of the --
Female voice: -- so all our visitors will have no views.
Paul Schwartz: Is there something wrong? Is there something wrong with that? Creating beautiful housing in downtown Berkeley?
Austene Hall: There’s nothing wrong with creating beautiful housing.
Paul Schwartz: The people who frequent the Shattuck…
Female voice: They’re visitors.
Paul Schwartz: They’re visitors. They are there from one day to a week, perhaps. They come. They go. They…
Female voice: So they don’t matter.
Male voice: They come back if they liked views.
Paul Schwartz: That’s true. Though how many people go to the Shattuck Hotel for the views. Have you ever spoken to any of these people?
Austene Hall: Actually when I did a tour of the Shattuck Hotel they showed me the rooms with views because that was really…significant.
Paul Schwartz: I’ve been at the subcommittee meetings of this and I’ve seen the drawings and it looks to me like less than 20% of the windows in the Shattuck Hotel would suffer a view impingement but you would create…
Austene Hall: The bay view rooms would.
Paul Schwartz … views for hundreds of apartments that are just beautiful. People could live there and have these incredible views.

Austene Hall And all the students who will be here for a year. Yes.

Paul Schwartz But that’s kind of why you are opposed development…

Female voice All the transients...all the...

Austene Hall Transients...

Female voice Transient students.

Paul Schwartz …but I don’t know why you are opposed to development. Development is important in downtown Berkley. Downtown Berkley can be dull and uninteresting and unexciting. There’s development in San Francisco. There’s development in New York. There’s development in Los Angeles.

Austene Hall Sure. There’s development in ____________.

Paul Schwartz So what’s wrong with having development in Berkley?

Austene Hall Berkley has a ton of development going on…

Anne Wagley Okay. Let’s not get off subject. Let’s not get off the subject.

Paul Schwartz You’re one of the authors of Measure R which went down three to one.

Austene Hall I am. I’m one of the authors of Measure R. We raised $16,000. The developers for No on Measure R…

Paul Schwartz Yes.

Austene Hall … raised over $250,000.

Paul Schwartz Yeah. It went down three to one. And…

Female voice Because…

Paul Schwartz And that’s why you have a conflict of interest. You attend these meetings…

Austene Hall I do not have a conflict of interest.

Anne Wagley Okay.

Paul Schwartz And you try and kill the project because of your suggestions…

Austene Hall I’m not trying to kill the project.

Anne Wagley Oh my god.

Austene Hall I am saying that this project is in the middle of an historic district. It’s wrong.

Paul Schwartz If we were to follow you, there’d be no development in Berkley. If only they made it half the size. What developer would…

Austene Hall You’re wrong.

Anne Wagley I would like to put an end to this conversation because it’s imping—you can take your personal arguments elsewhere. We’re here to comment on the draft EIR and I think everybody has put in their comments.

Female voice So, just to clarify on the alternative, again I understand that CEQA(?) of the commission understand the requirements of the _________ regarding alternative ____________.

Anne Wagley For the infill projects as it has been defined here?

Female voice Yeah.

Anne Wagley Meaning the historic resources. Is that what you’re…

Female voice Yeah. For infill. Yeah.
Anne Wagley: Yeah.
Sally Zarnowitz: Do you understand what the requirement is for alternatives. What is people's requirement for alternatives.
Anne Wagley: We have the preservation alternative…
Austene Hall: We have the two alternatives…contextual and the preservation?
Sally Zarnowitz: Right. That CEQA(?) requires a reasonable range of alternatives to the infill EIR and the more limited range that is required? And that you understand how alternatives need to address significant impacts. And also may cause it to ____________.
Austene Hall: Right.
Anne Wagley: Yes.
Austene Hall: But what we’re saying is that not all the impacts have been…
Anne Wagley: Properly addressed.
Austene Hall: …properly addressed.
Anne Wagley: Sufficiently addressed of the alternatives.
Sally Zarnowitz: So alternatives that don’t address significant in ______…that don’t meet project objectives and address impact, that do not have to be considered and they developers do not need to provide feasibility findings to those alternatives. Because…so these are alternatives which are looking at difficult questions of how are impacts reduced and project objectives met as closely as possible. It’s a difficult balance that, you know, the ____________ people have worked on.
Anne Wagley: Right.
Austene Hall: We’re talking…Right. Yes. We understand that. We’re talking historic resources.
Sally Zarnowitz: Right. So reducing the scale and not meeting the project objectives would a very, you know, because the alternative that is, you know, would clearly not meet the project objective.
Austene Hall: It doesn’t pencil out for the developer. I understand that.
Sally Zarnowitz: But it is per CEQA, it’s not per the developer. But per CEQA, if it doesn’t meet—it would clearly not meet the project objective. The alternatives before you come closer to meeting the project objective. There’s a table in the draft EIR that lays that out. And I’m wondering whether there…
Austene Hall: Right.
Sally Zarnowitz: …whether the commission is aware of that and understanding that that’s how these alternatives are developed. And that those are the issues that are before the commission and the city.
Austene Hall: And what this doesn’t seem to recognize is it is surrounded by historic resources.
Anne Wagley: I think there is a—there—I’m not a CEQA lawyer but I think there is a significant conflict kind of goes beyond our current conversation but the Baja people may be more in tune with this. A conflict between streamlining of CEQA and the standards that historic preservationists want to uphold and if you have your bar raised for—that the project has to meet certain development guidelines such as number of units,
density, etc. that is an inherent conflict—so, you know, essentially you are saying it will be a 700 unit project or a 400 unit project and that baseline is going to inherently conflict with some of the standards that we want to adhere to. So that’s something that is happening in CEQA law that previously we would say the preservation alternative would significantly reduce the massing and would significantly respect the fact that its adjacent to five other historic resources. We realize that we can’t do that because CEQA has raised the bar saying that this is the project and its going to be a certain bulk. Well that’s a conflict for us. But you know we can still say we don’t think that this pro—I can still say, I don’t think that this project as it is, in both its original form and in its preservation alternative and contextual alternative still I do not believe that either of those three alternatives meets what I want to uphold which are the secretary of interior standards for the treatment of historic properties. And I also don’t think it fits with Berkley’s design guidelines. So I realize that my standards may be a little more towards the secretary of the interior and less towards current CEQA law but that’s where I am.

Sally Zarnowitz: And again, the hearing—the meeting the _________ is a comment on the draft environmental impact report and there’ll be another meeting to comment on the project and the decision on the project. Of course this is the environmental belief of that decision. That the issue before you this evening and the comments you’re making regarding the adequacy of the environmental _________.

Rose Marie Pietras: Right. I think what happened with CEQA, from what I’ve read today and other days, is that because they want to streamline the system for infill projects, it’s now omitted certain criteria by which planners like myself had to go through based on say visual impact. And so by that we’re not able to really look clearly as to what the visual impacts are. So we’re basing it on esthetics. And that’s why it’s skewed in my opinion. By fast tracking it because it’s infill, the analysis becomes skewed. Because now we’re not looking at it as a whole picture anymore.

Female voice: Yeah.

Sally Zarnowitz: And I—you know, we can have the consultants speak to that as well. I mean, you know, aesthetics is what I was saying the infill project ______ you do not need to consider the _________.

Female voice: Right.

Rose Marie Pietras: But I mean—I mean if you look at the section in CEQA when you do an initial study, the section on…

Sally Zarnowitz: Historic resources are still considered….

Rose Marie Pietras: Well what I’m trying to say is, that the section on visual is a whole laundry list of things that you have to fill out in order to say no there’s no impact or yes there is no impact. With visual there’s always an impact. And it’s always significant because what wasn’t there is now there and it’s never gonna go away.
Female voice: Yes.
Rose Marie Pietras: So by taking that section out, now you aren’t even looking at it in detail. That’s the point I was trying to make earlier. So...
Sally Zarnowitz: And yet in the historic resources section the consultants looked carefully at four mitigation measures to make the project more compatible with the historic hotel that would remain. Does the commission agree with that?
Rose Marie Pietras: There has...
Sally Zarnowitz: Do you agree with those measures. Because that’s the—you know, the first impact is demolition and that’s a significant impact.
Rose Marie Pietras: Is that it...
Sally Zarnowitz: Impact is related to contextual compatibility which would be a significant impact without mitigation that is what the document is saying. So, the question would be again does the Commission agree with that or disagree.
Anne Wagley: Well I think we’ve put in our comments I don’t think we have to respond as a whole commission, some people haven’t made comments of those mitigations. I have made comments on those mitigations but by keeping asking does the Commission agree I don’t think we’re going to get there. I think Commissioners who have looked at mitigations they can make their comments and if nobody have any more comments we will wait until we see the full EIR and make our further comments on that.
Austene Hall: Well the impact CR1 is the impact demolition.
Rose Marie Pietras: Correct.
Austene Hall: And it says yes you do drawings – historic drawings which Verdon Edward said was absolutely incorrect when the mitigation measures here were not correct according to the secretary of the emperor standards so it’s making drawings and its salvaging windows that could be toxic, its huh, which would then – which would then need to be cleaned up by the developer that was discussed here.
Anne Wagley: Yeah, I said that that was insufficient.
Austene Hall: It’s insufficient.
Anne Wagley: That we need a lot more of CR1.
Austene Hall: Yeah.
Anne Wagley: A lot more information for CR1.
Rose Marie Pietras: Right and the document does say that those do not reduce the impact to less than significant
Austene Hall: Right.
Rose Marie Pietras: So, the document does say this that’s where the overriding considerations will need to be made.
[Entire room talking]
Matt Davis: Matt Davis from Architectural Resources Group we’ve prepared historical resources report that an appendix to the EIR and formed a cultural resources chapter and about that issue there’s a famous quote in
this domain of law that drawing a chalk line around a dead body does not mitigate a murder. Well it’s the idea when you get to demolition that we never put forward these ideas of documentation and salvage as a way to completely mitigate the demolition and our report and the EIR is very clear on that. That these are improvement measures basically that helped to reduce the significance of the demolition by providing some information for the building for the future for future generations but they don’t mitigate that demolition to less than significant. The other thing I wanted to clarify just because there was some murkiness earlier, our role is being – is what resource consultant sub-consultant to Rincon working with the City was our role. Was absolutely not different in any way because this happen to be an infield project. That aspect … those aspects of CEQA law don’t pertain at all our endeavor as evaluators of the historical resource so I just wanted to clarify that.

Rose Marie Pietras
Okay, so what does that mean you went into more detail then you were supposed to. Is that what you were saying, or what …

Matt Davis
No, that didn’t change our analysis, I mean it wasn’t until we came when presented a few drafts that I even knew that if the project qualified under these infield guidelines and that infield status of the project had implications for certain aspects of the CEQA analysis. It didn’t affect our analysis at all.

Austene Hall
Okay, alright. Does the Commission have any more comments on the EIR?

Paul Schwartz
Does the EIR look at the movie theaters [inaudible] condition of the project.

Sally Zarnowitz
The EIR looks at the environmental impact of the project so…

Paul Schwartz
Does it mention the movie theaters and whether then can be conditioned for the project like what we’re hearing a lot of talk about the fine arts theater [inaudible] cinemas

Rosemarie Pietras
And he said No.

Paul Schwartz
Well.

Rosemarie Pietras
He said No.

Paul Schwartz
I thought he said Yes but he did in fact subsequently say Yes we will keep the cinemas. Apparently there are 8 theaters now and he want to bring it down to 6.

Rosemarie Pietras
He wanted to put 16 in there didn’t he.

Room talking

Abe Leader
Hi Chair and Commissioners I’m Abe Leader with Rincon Consultants. I just want to say one thing about the theaters how they analyze them to get is they’re part of a proposed project that the applicant sent us to the City, the City asked up to look at the environmental impacts. The EIR as its important member does not make recommendations on whether the project is a good project should be approved or should be not. That could happen regardless of what the offer says. So, what does the movies staying part of the project have the approval level and document itself just looks at what is proposed now.
Paul Schwartz: Any questions [inaudible] Is there any City board does that could eventually City Council [inaudible] make a condition of the project. You don’t do the theaters you don’t get the project.

Sally Zarnowitz: It’s a difficult question. It’s a Land Uses decision. Room talking

Sally Zarnowitz: And it would be relevant to Land Use not necessarily to a specific tenant again the specific use is not … Room talking

Sally Zarnowitz: Again, but it’s not limited to land use doesn’t mean [inaudible].

Paul Schwartz: Ann said that project [inaudible] the building.

Sally Zarnowitz: Well again that’s part of the public description. I believe that’s what Abe is referring too.

Paul Schwartz: Because people are saying the theater is going to disappear and I was always under the impression that they are definitely going to be there and I think the mistake that was made with fine arts theater is that it was not conditioned in the initial permits.

Speaker: Yes it was it was in the drawings

Paul Schwartz: It was in the drawings but when all the permits were granted did they make it a requirement?

Rosemarie Pietras: It was part of the project I was on Zoning.

Dmitri Belser: They never rented it. My understanding is they never found a tenant to take it. And so you can build a theater but that doesn’t mean it will come.

Rosemarie Pietras: That isn’t the way they presented it though.

Paul Schwartz: Isn’t there a way the City can protect itself and make a contract so that it’s a mandatory part of a building?

Dmitri Belser: If, if the landlord can’t find someone to rent it what are they going to do they’re not going to operate the theater themselves.

Paul Schwartz: Well, they could keep it as a theater until they find somebody to rent it or it could be conditioned in such a way that they have to because they have so many apartments they’d have to take a loss and rent it to somebody else you know you can put conditions into these things.

Austene Hall: I think it would be up to the ZAB or maybe the council if they wanted to do that kind of

Paul Schwartz: I would strongly suggest that that seems to be the main objections here to this project. There were two objections I heard, one we’re going to lose the theaters, if it can be structured in such a way that they keep the theaters, and two that it will impact a view that, that I don’t know, that I think is already impacted and I but it remains to be seen.

Austene Hall: But the developer will change the theaters too because it will be different theaters not the historic theaters.

Paul Schwartz: Well it could be permitted in such a way that it must always be maintained as a theater and hopefully they’ll always have a tenant. Landmark has indicated they are willing to be there and operate theaters but Landmark could always back out.

Rosemarie Pietras: Yeah but with the fine arts theater it was told to us at ZAB when I was
on ZAB that it was going to be an international foreign, foreign films.

Paul Schwartz: Was it built as a theater?
Rosemarie Pietras: Yes it was.
Paul Schwartz: Has it been remodeled since then and the theater removed?
Anne Wagley: Now it’s a restaurant.
Rosemarie Pietras: Next door is a restaurant but not the middle section.
Speaker: I think that space is empty.
Austene Hall: Are there other comments? I’m glad you brought up the theater one because that has been something from the audience that was very important that, and I think that
Rosemarie Pietras: I mean, I think the theaters are very important
Austene Hall: Important to individuals in the community.
Rosemarie Pietras: And we don’t need it to change either. We need it to, just leave it the way it is. We don’t need sixteen, what is he proposing?
Paul Schwartz: Well they’re reducing the number of seats I don’t know the number they currently have I think it’s going from an 800 something to 600 something it’s going from 8 theaters or 8 screens to 6 screens.
Rosemarie Pietras: Well just leave it the way it is, they don’t even have to touch it, save them money. Save your money. The City doesn’t want to be changed.
Paul Schwartz: I mean I agree with all of you, I love these theaters, I go every week, I think they’re a cherished community asset, and I think we need to, I’m not happy about the idea that they would be underground but who knows. But she built an underground level on her house.
Austene Hall: OK I think we are done with our discussion unless there is a motion or something that people want.
Rosemarie Pietras: Well we can’t motion anything on the theater because it’s not a land, I mean – it’s not that many years old.
Austene Hall: Thank you very much to everyone for coming and discussing this, it is a very big issue for the community.
Rosemarie Pietras: So what have we decided here. Are we accepting the EIR?
Austene Hall: It’s a referral so our comments will go to the project uh, and, Sally has - Sally Zarnowitz: They’ll go into the document and there will be a response to comments so [inaudible]
Austene Hall: And I encourage everyone to write their comments and send them in to whatever the address is for the comments for the EIR. Do we have that information Sally? Where that’s sent to?
Sally Zarnowitz: It’s on the cover of the document [inaudible] Aaron Sage.

END OF MEETING
MEETING: Landmarks Preservation Commission

DATE: November 6, 2014

RESPONSE:

Public Comments:

Response LPC.1

The commenter discusses the programming and popularity of the Shattuck Cinemas. The commenter questions whether the project applicant would truly build the replacement theaters in the proposed project and requests that the demolition not be approved. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.2

The commenter states opposition to demolition of the Shattuck Cinemas and opines that the replacement theaters in the proposed project would not be built because the Draft EIR does not include a legal mandate that requires the project applicant build the theaters. The commenter requests that the Landmarks Preservation Commission not approve the Draft EIR. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.3

The commenter expresses opposition to the proposed demolition of the Shattuck Cinemas. The commenter expresses concern that the replacement theaters in the proposed project may never be built and references the Fine Arts Cinema. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.4

The commenter states that they started the Save the Landmark Shattuck Committee because, in their opinion, the public noticing for the proposed project was inadequate. See Response 29.9 for a response to this comment.

Response LPC.5

The commenter states an opinion that the Shattuck Cinemas is a Cultural Landmark and that it deserves protection because it is an integral part of Berkeley’s culture and business. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.6

The commenter expresses concern that the proposed project would involve the demolition of the Shattuck Cinemas, because it shows unique films and is accessible to wheelchairs. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
should be noted that new theaters as proposed would be required to meet all requirements of the Americans with Disabilities Act (ADA) regarding wheelchair accessibility.

The commenter expresses an opinion that 98% of “local people” do not know the proposed project would involve the demolition of the theater. See Response 29.9 for a response to this comment.

Response LPC.7

The commenter states an opinion that the view from Campanile Way is a historic resource and requests that the Landmarks Preservation Commission use its authority to “reaffirm” that the view from Campanile Way is a historic resource. The commenter states opposition to the project’s intrusion into the westward view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.8

The commenter opines that the Draft EIR is inadequate because it does not consider a project alternative that would “preserve” the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.9

The commenter states an opinion that the impact on the view is significant when the existing vegetation is removed and refers to a 1920s photo of the view from Campanile Way without the existing vegetation. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.10

The commenter expresses concern that the proposed project would demolish the Shattuck Cinemas and include replacement theaters that would not face Shattuck Avenue. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. The proposed project would keep the entrance to the theaters in its current location on Shattuck Avenue to serve the proposed new theaters.

Response LPC.11

The commenter states an opinion that the view from Campanile Way dates back to 1873 and is consequently historic. The commenter requests that the Commission “deny” the “elimination” of the view. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.12

The commenter opines that the EIR is inadequate and that the proposed project is a “travesty,” largely because, in the commenter’s opinion, it is out of scale with surrounding historic resources and “doesn’t obey any of the design guidelines for new construction.” Please see
Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.13

The commenter states that Berkeley needs the type of entertainment provided by the Shattuck Cinemas. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.14

The commenter expresses opposition to the demolition of the Shattuck Cinemas, and opposes a modern-designed building on the project site. Please see Topical Response D, Demolition of the Shattuck Cinemas, and Topical Response A, Project Visual and Historic Compatibility Impacts, for responses to these comments.

Response LPC.15

The commenter opines that “great cities” preserve their architectural heritage, the Shattuck Cinemas is a part of that heritage, and the proposed new “state-of-the-art” theaters cannot replace that. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.16

The commenter appears to suggest an alternate development strategy that preserves the Shattuck Cinemas. This comment on the merits of the project is noted and will be forwarded to the City’s decision makers. The commenter requests more time for public comment and states an opinion that many people were not aware of the proposed project. See Response 29.9 for a response to this comment.

Response LPC.17

The commenter supports the opinion that the Shattuck Cinemas are a cultural resource. The commenter goes on to state an opinion that the proposed project is out of scale with the surrounding historic resources and violates the Secretary of Interior’s standards and the Downtown Area Plan, but does not include specific analysis of this claimed inconsistency. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.18

The commenter states an opinion that the Draft EIR does not recognize the potential incompatibility of the proposed project with surrounding historic resources as an impact. The commenter opines that the Draft EIR “read way too much into” the guidelines for infill EIRs. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. Please see Section 1.0, Introduction, of the Draft EIR for a discussion of the applicability of the Infill EIR provisions of CEQA. The commenter’s opinion regarding
the City’s interpretation of the CEQA Guidelines is noted, but does not specifically conflict with the analysis or conclusions of the Draft EIR, and therefore a specific response is not possible.

Response LPC.19

The commenter states an opinion that the project alternatives do not substantially reduce the mass of the proposed project. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment. The commenter suggests that an alternative should be included that limits the height of the proposed project to 60 feet on the northern side, in order to reduce impacts to the views from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.20

The commenter states an opinion that the Draft EIR wrongly recommends that the ornamental ceiling in the Shattuck Cinemas be removed for salvage. Please see Topical Response D, Demolition of the Shattuck Cinemas, and Response 47.4 for responses to this comment.

Response LPC.21

The commenter opines that the Shattuck Avenue block where the project site is located is the “most historic” block in the City of Berkeley and that the project would be out of scale and not contextually designed. Please see Topical Response A, Project Visual and Historic Compatibility Impacts for responses to this comment.

Response LPC.22

The commenter states an opinion that the historic context needs to be considered and that although the Contextual Design Alternative is “the least offensive,” it is still too large for the project site and that an alternative should reduce height. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, and Topical Response B, Westward View from Campanile Way, for responses to these comments.

Response LPC.23

The commenter states an opinion that the proposed project is incompatible with the historic context of its surroundings and cites the adjacent historic library. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.24

The commenter states an opinion that the proposed project will have an impact on the westward view from Campanile Way, but also on views west of the proposed project looking east towards the hills. Please see Response 8.7 for a response to this comment.
Response LPC.25

The commenter requests that the massing of the proposed project be reconsidered to reduce impacts on the view from Campanile Way because, in the commenter’s opinion, the view is frequently visited, historic, and beautiful. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.26

The commenter suggests Berkeley develop like “a European city” and “take the context to be more gracious.” Please see Topical Response A, Project Visual and Historic Compatibility Impacts, regarding aesthetic impacts of the proposed project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.27

The commenter restates their request that the proposed project be reconfigured so that it is consistent with the quality of life and values of Berkeley. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.28

The commenter states an opinion that public noticing was inadequate for the proposed project. Please see Response 29.1 and Response 47.5 for a response to this comment. The commenter objects to the proposed project’s impacts to the view from Campanile Way and discusses the history of Campanile Way. The commenter requests that the Draft EIR be rejected due to the impact of the proposed project on the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.29

The commenter states an opinion that although the project applicant will likely replace the Shattuck Cinemas, the theater and local businesses will be disrupted. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment. In addition, this comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.30

The commenter states an opinion that the Draft EIR does not include adequate alternatives. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, and Topical Response B, Westward View from Campanile Way, for a response to this comment.
Response LPC.31

The commenter states an opinion that there is no reason the project needs to be developed as proposed and asks that the Commission reject the Draft EIR. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.32

The commenter states an opinion that the Draft EIR and the EIR public process are both insufficient and requests more time for public comment. Please see Response 29.1 and response 47.5 for a response to this comment. In addition, the comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

LPC Commissioner Comments:

Response LPC.33

The commenter opines that the Draft EIR and the EIR public process are both insufficient. The commenter also states an opinion that the massing of the proposed project and the alternatives conflict with the surrounding landmark buildings, and requests that a more “gracious” development be proposed. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, and Topical Response C, Adequacy of the Draft EIR Alternatives, for responses to this comment.

Response LPC.34

The commenter states an opinion that the proposed project violates the Secretary of Interior Standards for the Treatment of Historic Properties. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.35

The commenter states an opinion that the proposed project violates Berkeley Downtown Design Guidelines. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, and Response 4.3 for responses to this comment.

Response LPC.36

The commenter opines that the Draft EIR is “severely lacking” in regards to mitigation measures CR-1 and CR-2. Concerning CR-1, the commenter states an opinion that the EIR should discuss more about the demolition and salvaging of historic materials. Please see Response 47.4. The proposed demolition is described in detail in Section 2.0, Project Description, of the Draft EIR, and the environmental impacts of the proposed demolition are described throughout the Draft EIR, the Infill Environmental Checklist (Appendix A to the Draft EIR), and the HRTR (Appendix B to the Draft EIR). This comment does not provide specific evidence that
conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.37

The commenter opines that Mitigation Measure CR-3 is inadequate because there needs to be more studies of Campanile Way, but does not say what information such studies should provide that is not already presented or referenced in the Draft EIR; therefore, a specific response is not possible. The commenter further states an opinion that Campanile Way is a significant historic resource and that the Draft EIR is inadequate because it does not include an alternative that preserves the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.38

The commenter states that the Shattuck Cinemas is unique and cannot be replaced. The commenter also expresses distrust that the proposed project would include new theaters. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.39

The commenter states an opinion that the developer should redesign the proposed project to eliminate impacts to the view from Campanile Way. The comment is noted, but does not pertain to the Draft EIR. It will be forwarded to the City’s decision makers for their consideration. See also Topical Response B, Westward View from Campanile Way, and Topical Response C, Adequacy of the Draft EIR Alternatives, for more information on the alternatives as analyzed in the Draft EIR.

Response LPC.40

The commenter states opposition to the proposed project and the demolition of the Shattuck Cinemas, stating that although the theater is not currently eligible for consideration as a historic resource, it would be soon (in 2028, when the theater reaches 40 years old). Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.41

The commenter states an opinion that the massing of the proposed project is not compatible with the Shattuck Hotel. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. The commenter states opposition to Berkeley “becoming like this big modern-looking city”. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.42

The commenter questions why the westward view from Campanile Way is analyzed as a character-defining feature and not a historic resource in its own right, just because it hasn’t been
“bestowed” as such. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.43 (public comment interjected during commission discussion)

The commenter states an opinion that the Landmarks Preservation Commission has the authority to formally designate the view from Campanile Way as a historic resource, irrespective of the analysis in the Draft EIR (HRTR). Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.44

The commenter opines that the analysis in the Draft EIR is flawed because the trees and vegetation that currently block part of the westward views from Campanile Way could be cut down, die naturally, or otherwise be removed from the view. The commenter further states an opinion that the view corridor is “part of the bigger historic resource but as an element unto itself it’s something in Berkeley that extends from the campus all the way down to the golden gate and beyond.” Please see Topical Response B, Westward View from Campanile Way, for a response to these comments.

Response LPC.45

The commenter states that they are willing to make a motion as a member of the Landmarks Preservation Commission that the view corridor from the Campanile to the Golden Gate Bridge is a “significant historic resource” and that it would be “significantly impaired” by the proposed project. Please see responses LPC.48 and LPC.49 below.

Response LPC.46

The commenter states an opinion in response to the discussion of the view qualifying as a historic resource in its own right, that the view from Campanile Way is currently blocked by vegetation and suggests that the view is “very minimal” and that some of the comments made by the public do not constitute a professional analysis. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response LPC.47

The commenter states that he is not making a statement about what protection of the view would ultimately mean, rather just that due consideration needs to be given to the view, but does not provide specific comment as to the inadequacy of the analysis in the Draft EIR. Please see Topical Response B, Westward View from Campanile Way for a response to this comment.

Response LPC.48

The commenter makes a motion stating that the Draft EIR is deficient in that it doesn’t recognize the view from Campanile Way as a significant historic resource, that the proposed project would “significantly” impact the historic resource, and that the Draft EIR is deficient in
that it does not provide an alternative that preserves the view from Campanile Way. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.49

The commenter states they do not support the part of the motion stating that the proposed project would significantly impact the view. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.50

The commenter re-states the motion to the Landmarks Preservation Commission, removing language that the project would significantly impact the view, and clarifying that the motion states the Draft EIR is inadequate in that the EIR needs to look at the view corridor as a significant historic resource and develop an alternative that reduces impacts to the view corridor. The motion was passed by the Landmarks Preservation Commission with six for, one against and one abstaining (one seat vacant). Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response LPC.51

The commenter states an opinion that the project site is the wrong location for the proposed project because the proposed massing is not consistent with surrounding landmarks. The commenter states an opinion that the proposed project violates Secretary of State Interior standards and the Downtown design guidelines. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.52

The commenter opines that the Draft EIR does not adequately analyze the proposed project’s massing. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. The commenter also opines that the Draft EIR lacks analysis of the proposed project’s outdoor spaces, public spaces, and the potential re-use of the 1926 Hink’s addition as part of the design. The purpose of the Draft EIR is to identify the likely environmental consequences associated with development of the proposed project, and recommend mitigation measures to reduce potentially significant impacts. The impacts of the proposed project on recreation and parks are described under Item XV, Recreation, of the Infill Environmental Checklist (Appendix A to the Draft EIR). The Infill Environmental Checklist found that the proposed project would have no impact on recreational resources and would not require mitigation measures. The project is required to comply with the City’s zoning regulations for useable open space per unit. It should be noted that there is no public open space on the project site in its current use and configuration. A preservation alternative is included in the Draft EIR that substantially preserves the 1926 Hink’s addition.

Response LPC.53

The commenter further opines that the Draft EIR does not adequately analyze alternatives to the proposed project’s massing. Please see Topical Response A, Project Visual and Historic
Compatibility Impacts, and Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment.

Response LPC.54

The commenter states that the proposed project blocks “all the views from the Shattuck hotel” and that this is a “travesty.” Please see Response 4.9 for a response to this comment.

Response LPC.55

The commenter states an opinion that the alternatives in the Draft EIR do not adequately uphold the Secretary of Interior’s standards for the treatment of historic properties and do not comply with Berkeley’s Design Guidelines. The commenter does not provide analysis or information on which to base a specific response. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response LPC.56

The commenter opines that because the EIR for the proposed project is an infill EIR, the analysis in the Draft EIR is “skewed.” The commenter also states that because the Draft EIR omits discussion of the visual impacts of the proposed project, presumably because it is an infill EIR, it doesn’t consider the “whole picture.” Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. Please see Section 1.0, Introduction, for a discussion of the applicability of the Infill EIR provisions of CEQA. It should be noted that the Infill EIR process is streamlined in content and approach, but not “fast tracked” as implied by the commenter. CEQA timelines and notification periods are the same for an Infill EIR as for a non-infill EIR.

Response LPC.57

The commenter states an opinion that Mitigation Measure CR-1 needs more information about salvaging historical materials, which may be toxic and require cleaning, and more mitigation for the demolition impact. Please see Response 47.4 for a response to this comment.

Response LPC.58

The commenter asks if the replacement movie theaters could be a condition of the proposed project. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response LPC.59

The commenter states an opinion that the Shattuck Cinemas should remain untouched by the proposed project, in part because it is a community asset. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
Yes, thank you.
G. Powell: And chair Alvarez-Cohen.
M. Alvarez-Cohen: Yes. You have unanimous approval. Appealable to the City Council. Thank you.
Thank you very much.
M. Alvarez-Cohen: We're going to take a moment, we have a staff change, another one-minute break, just a minute to get the staff rearranged here. Maybe two minutes. [ Short break ]

M. Alvarez-Cohen: Alright. We want to get started here. Moving on to the final item of the night, 2211 Harold Way. Here's how we're going to do it. This is an EIR, it's going to be another time for us to, for the public to speak about this. So staff is going to take approximately 15 minutes to overview the project including the consultant that's working on this EIR. We'll give the applicant two minutes and then everyone else in the public record, public hearing two minutes as well. I have over 20 cards here. This in general is going to take over an hour to do. We have a captioner break coming up. So we're going to try to fit it in before the captioner break and bring it back to the board. That's our plan. Staff?
G. Powell: A quick update about the captioner's break. Because we have had several breaks, there's no need to do one at 10:00 but we may get a text saying, okay, time to take a break. But we can run past 10:00.
M. Alvarez-Cohen: We'll call an audible on that. Staff, take it away.
A. Sage: Thank you, Aaron sage, senior planner and project manager for this project. I want to make a few brief remarks and hand it over to our CEQA consultant, Abe LIEDER. Who will go through the context. To orient the purpose of tonight's agenda item this is basically two-fold. One is to accept comments both from members of the public and from the ZAB on the EIR, on its adequacy, on anything that -- anything, related to the EIR. That those comments will be treated as if they were written comments filed within the normal EIR comment period. We will prepare a written summary of all of the verbal comments we get tonight and provide responses along with all of the other written comments that we receive. Abe will cover that a little bit more. And then the second purpose would be just to try to answer any straightforward questions that the ZAB might have about the EIR process or its content. We do want to stress that questions to staff should be fairly straightforward and what we don't want to have is sort of a cross-examination of staff as to why the analysis was done a certain way or why a particular issue wasn't included. If a ZAB member feels strongly about that, it's probably best to make that as a comment rather than trying to get an explanation from staff on that issue. Just a couple of clarifications, the agenda had the comment period for the EIR, the end of that incorrectly stated as November 18, it's actually November 19, Wednesday, at 5:00 P.M. That is the deadline to submit comments on the EIR. And then also wanted to just let you know that we passed out minutes from the DRC's meeting to review and comment on the EIR which was last Tuesday. And those are...
available in your supplemental packet. And we can answer questions about that if you have them. We also have Sally Zarnowitz, the Landmarks Preservation Commission secretary here tonight and she's sitting here next to Aaron. And she's available to answer any questions you might have about the LPC's meeting last Thursday. So with that I'll hand it over to Abe for an overview of the EIR process.

>> A. Lieder: Thank you, good evening, I'm Abe Lieder, from Rincon consultants, we wrote the environmental impact report and the EIR process. The purpose of the meeting is to take comments. I'll try to make my remarks sort of brief covering the basics. First I'll orient the purpose of the environmental review and the process, talk about where we are in that process and what is to come and then give a brief overview of the draft EIR conclusions. So, the purposes of CEQA, the California Environmental Quality Act, the law that we're operating under when we write this document and the purpose of the EIR are to disclose significant impacts of a project, talk about ways to avoid the impacts, and look at alternatives that also avoid them. Just important to note that the EIR is an informational document, it's intended to support the City's decision. It does not itself contain recommendations on approval or denial or whether the project is a good idea in a larger planning context or whether the environmental benefits outweigh its impacts. It's just supposed to present the facts to the decisionmakers. Here's a quick flowchart, not legible to everybody in the room but just to show that it starts with a scoping progresses these were held earlier this year where the City asks interested agencies in the public what should we be looking at, what are the important environmental issues related to the project. Then the City prepared the draft EIR and now in the "we are here" arrow pointing to the public review period, that's where we are right now. Document is at the library, on the Internet, and people can read it and tell the City what they think of it. That is the purpose of the hearing tonight as well. When this is done, as Mr. Sage said, the City gathers this all of the comments, makes a written response to them and any necessary changes to the EIR. Remember this is a draft EIR now. But excellent, it would become a proposed final EIR to support the City's decision. There's the timeline, again, started in May of this year, took us through scoping and draft EIR came out in early October and then as Mr. Sage said, the comment period ends next week on Wednesday. Over the last three years, the legislature made several changes to CEQA, to the CEQA statute and guidelines. Some of these, the bills were Senate bill 226 and 743, some of these apply to this project and the EIR. Want to summarize them for you fairly briefly. So, there's a series of steps you have to go through to see if the project qualifies, this does, that's explained in the document because it's mixed use, near transit and a few other reasons. These new guidelines say this infill EIR sort of the nickname for this sort of environmental impact report doesn't need to address alternatives, different locations, density or building intensity. You don't need to look at a reduced project in the alternative. One of the key things
about the infill EIR process, is that if a project has been, impacts have been disclosed in the previous planning level document, the downtown area plan, they don't need to be identified as significant impacts, again, when you look at an individual project under the plan. Thank you. Also, there's summarizing that first point, also specifically calls out aesthetics and parking impacts as not considered significant impacts of a project. Those are not pulled off the table, we need to disclose them in the document but they can't be called significant per CEQA. And to note, aesthetic impacts don't include compatibility with historic resources that may affect those eligibility of the resources, aesthetic is historic resources impact and can be significant. The EIR covers two main issues in detail in the body of the document, in their traffic and historic resources. Appendix A to the EIR is the infill check list that goes through the other issue areas and discusses whether they are significant, impacts would be significant in a different or more severe way than was studied in the downtown area plan. After that process what came up was historic resources and traffic. Impacts are in three categories, less than significant, significant mitigatable, and not mitigatable. Historic resources -- did we switch out the slides? Go back. Oh, there we go, okay, sorry. The big one, the significant unavoidable impact that was identified in the EIR was the most straightforward impact, demolition. Although the EIR does identify mitigation measures including documentation of the resource, salvage of certain materials and contribution to a fund it is severe enough, irreversible, it's significant and unavoidable impact. Moving on to significant but mitigatable impact with historic, one is impact on historic resources, library, Shattuck hotel, putting a new larger building in that context does it have a significant impact on those resources to remain. The EIR concludes after the mitigation measures identified in the EIR, that impact would be less than significant. The mitigation includes design changes and modifications to the project to make it consistent with the design guidelines, secretary standards. In the impact is construction. When you're doing deep excavation, pile driving, heavy equipment, next to historic resource, vibrations through the soil and through the structure can harm the adjacent resource, we looked at that. Some detail, came up with a suite of mitigation measures to make it less than significant. Next, less than significant impacts to historic resources and traffic. One historic resource less than significant was the impact on the view from the base of the Campanile on U.C. campus. That is a contributor to historic landscape and the building would block a small portion of that view, small or smaller depending where you are, in that view area, at the base. That was considered a less than significant impact. Traffic impacts and certain conditions were also considered less than significant in the existing condition scenario. Next slide. There was a traffic impact identified in the future condition scenario, we don't have a slide, but we compared the traffic impacts of the downtown area plan buildout to the traffic impacts of the project itself and
there was one intersection where it would be more severe and we identified a mitigation measure that would bring it down to less than significant. The project alternative discussed in the EIR are no project, everything would stay the same, preservation alternative whose main pumps were to preserve enough of the structures onsite to avoid impact of demolition. There's modifications to the project program. And the third alternative, contextule design took the mitigation mess and brought them into a darn dash not fully designed but massing model alternative, showing what a more contextule design would look like. I think we have some, please go on, there's a rendering of the reservation alternative, the facades of the 1926 building there, would be preserved. And if you can go on. Only one slide of that. In relation to the project impacts the preservation alternative would eliminate the significant demolition impact, also eliminate the compatibility impact and reduce the view impact. The traffic impacts would be generally similar, the program is generally similar as far as units. The next, one rendering of the contextule design alternative that, might be the only image, but -- there might be three. Can you go through them slowly. There's another shot of that from the Harold and Allston corner. And from Allston Way elevation rendering of that alternative. Again this was intended to reduce the compatibility impact and have a design that was more contextule with the surroundings. This one would still have the significant impact related to demolition, remove portions of Shattuck hotel, it would eliminate the compatibility impact and not require those mitigation measures, they're part of the program and alternative. And also slightly reduce the view impact from the Campanile base. Again the traffic impacts would be generally similar. Next slide. So that sort of is the overview. I would be happy to answer questions but the point of the hearing is to get your comments and put them into our final EIR hopefully. And there's the information for Aaron to submit comments.

>> M. Alvarez-Cohen: Thank you. Any questions for the staff? At this point. Remember, this is just questions on the staff report, not our comments. Igor.

>> I. Tregub: Yeah, just on the traffic and parking impact that you looked at. Was that done projecting the highest possible parking demand with all of the construction going on of this building and surrounding buildings in the downtown?

>> A. Sage: Do you mean during construction or do you mean cumulative with the construction occupied and operational?

>> I. Tregub: Yes, of those two which ever one cumulative would be the most significant.

>> A. Sage: Yes, the traffic study looked at cumulative buildout condition, everything built under the downtown area plan, to that buildout level, in the downtown plan EIR, as 2020 and 2035 horizon years.

>> I. Tregub: Thank you.

>> M. Alvarez-Cohen: All right. There are, appear to be no other questions, thank you for that informative opening. We'll bring the applicant up. And because this is just the EIR we'll try to
limit it to two minutes.

>> P. Pinto: I had a question on the traffic, the model that's being run. Is that an updated model of the downtown plan? What model is that being used?

>> I will have to look to see what the name of the model was. It was consistent of what was done for the draft EIR.

>> P. Pinto: My question is more precise, I want to make sure that the updated model. If it's including cumulative aspects that you mentioned before.

>> Yes, our traffic consultant is I.D.I., and they worked with your transportation staff to make sure that the model is consistent, updated as much as it needed to be. Also the county's model, also came into play. But the details are in the traffic study.

>> P. Pinto: Thank you.

>> M Alvarez-Cohen: All right. Mark take it away.

>> M Rhoades: Thank you Mr. Chair, members of the ZAB, I'm not here to do a project presentation. It's just to speak about one issue relevant to the draft EIR. I wanted to come tonight to bring it to your attention, I think that the Landmarks Commission made a bit of a mistake in their recommendation on a significant impact issue relevant to the Campanile view. I know that this is a controversial project and I expect lots of folks don't want this kind of a change in the downtown. The voters have spoken, again, and we believe that this project is very, very consistent with the will of the voters. You're about to get a packet that we were going to do slides but decided not to do that. First I'll say the trade-off on the historic resource, the Hink's box, is not a building that was built to be friendly to the street. And the project we're proposing changes the whole concept around Harold Way and what it would do for the downtown. The next page shows you the basic program at the ground level. We have the retail space, streets and open space, privately opened open space, garage entry and we have a new state of the art movie theater that Landmarks cinemas architects have designed in conjunction with our architects and our front center with the project, based on the community responses we heard. But I would ask you to go to the second -- third and the fourth and the fifth page. Third pain, the Campanile view, and I've spoken with Emily Martinson the director of campus planning twice in the last couple of days. University of California does not have concerns about this view issue. From her perspective the view is a campus view, doesn't extend to the city, and she's asked -- she told me I could relate that to you guys. The Campanile view is the EIR shows worst case scenario. And if you step to just step to the left on those stairs, the building disappears. What is the real impact? We put those photos in here so you can see what the naked eye sees or doesn't see.

>> M Alvarez-Cohen: Thank you.

>> M Rhoades: We request that the ZAB concur with the staff and consultant's finding on this, the Campanile view is not a significant impact.

D. Pinkston: In the project objective section of the environmental document, project objective 11 says that you're encouraging alternative modes of transportation. What about the project does encourage alternative modes of transportation?

Gosh. A lot of things. And we've submitted our formal list of community benefits to the staff. It's also available on the project web site, 2211Haroldway.com. You can look at significant transportation demand measures with the project. Each dwelling unit gets two A.C. transit passes free of cost. All employees retail, restaurant, movie theater, and employees of the project itself get free A.C. transit passes. We have a plethora of bicycle facilities on the side, including loaner bikes for shopping, residents, secure facilities at the ground level, in the lobby. Secure facilities in the basements. We've got electric vehicle charging stations in the basements. We have six car share spots in the basements. We have -- we're going to debut, hopefully if we can get this going quickly, the west coast debut of a pretty marvelous transit technology called transit walk. And what that does is take real-time transit information, A.C., BART, the campus shuttles, all of it. It tunes it to the site and we project that out on the sidewalk for the public to see. It would be projected out in the public plaza. I'm sure I'm missing a couple of things. Katie will kick me when I get back to my seat. Those are the big ones.

D. Pinkston: Thank you.

M. Alvarez-Cohen: Any other questions for the applicant? All right, thank you for fitting that in to two minutes. Now I'll call up members of the public here. I'm going to call up three people so we have some one on deck and some one on double deck. John Kaner then Leslie Emington and Jane Edgington. So Leslie and Jane could you also step up so you're ready to go.

I'm John Kaner, C.O., downtown Berkeley association. I work in the building where this is going to be developed. It's a dismal building. Harold way, the backside is dismal. This project is a gorgeous project, they have done a wonderful job, courtyard on Harold. They're also bringing back the movie theaters. I think all of the voters who 74% voted to oppose measure R, would be really, really surprised if they knew that views were being considered on the Campanile, possibly preventing from what the voters decided to go forward with the downtown plan. Please, use reasonable judgment and take this into consideration. I think it also is very, very noteworthy that the University of California is not complaining about this. Thank you very much.


Thank you. I have a written comment for the draft EIR material. Very informed by Denny and his project, and the health it gives to that area. And the EIR information, I'm going on read something I wrote. So, if built as proposed the Harold Way mixed use project would have a detrimental presence in downtown Berkeley. Overshadowing the City's central hub of activity, its most valued historic character and cultural sense of place. So essential to its revitalization. Tonight your discussion might
include the fact that the EIR fails to fully acknowledge the project's potential adverse impact upon the most immediate cultural context. Bound by architectural on Harold Way, Alston way, Shattuck Avenue. The DEIR fails to acknowledge the project potential adverse impacts to the wider area. Second City of Berkeley landmarks that should command further design consideration from this project. Certainly the final EIR will put forth and this is a question, an additional alternative or alternatives so as to better integrate the proposed project and respect to Berkeley's distinct character and community life. In regards to the ongoing evolution and revitalization of the downtown it seems important to be mindful that both the ZAB and the Landmarks Preservation Commission have long shared efforts to guide investments, changes, alterations and build new projects. Mindful of the valued historic context that we all share. Such efforts have fostered the high school campus, college -- city college, new restaurants.  

>> M. Alvarez-Cohen: Leslie?  

>> Okay.  

>> M. Alvarez-Cohen: Sorry, I'm sorry to rush you. Any questions for Leslie? We have your document. So Jane, you're up followed by John McBride, then Kelly you're on double deck here.  

>> I'm Jane edgington, here to speak on the visual impact on our historic and highly regarded University of California by the proposed development on Harold Way by an out of town developer. In 1873, the fledgling university moved from Oakland to the prized site in Berkeley exactly opposite the Golden Gate. The first buildings constructed were north hall and south hall. Sited to symmetrically flank the way to the fledgling town of Berkeley, the great and the bay. The campus had this view corridor in place. 1914 the Campanile was built, finished in 1950 with the esplanade around its base in 1916. The pathway leading from the Campanile west became known as Campanile way and is walked by hundreds of students, cam you will Tys and other people daily. I went out of my path from north Berkeley to Berkeley High, I loved the view of the great and the bay and I had -- Golden Gate. I enjoyed that as Cal student and many years since. Now an out of town developer from southern California proposes to build a towering 194 foot building and cult off the historic iconic view from the Campanile way. I urge to you deny this obliteration of the historic view that goes back to 1963.  


>> Want to set the clock?  

>> M. Alvarez-Cohen: Two minutes.  

>> Thank you very much. I'll try to keep it fairly brief. I'm no expert at EIRs but this is a discussion of comments on an EIR, not a post mortem on any election, measure R and I wish the proponents would not bring that red herring to this table, that's not our role, it's to look at the EIR and make comments. I particularly like you to look closely at the work that John English has prepared I won't read it, there's not time. John, I want to give the background, our resident staff member, BAHA zoning planner, worked for city of Oakland for 25 years,
graduate of University of California and worked with Jack Kent and some very notable people who did a lot to create the texture of this town in the 1950s and '60s. So I'd ask you to really look closely at the comments he's about to give you. They're in writing. He'll give what you he can, he doesn't need to yield time to him. I said look closely. As for the whole issue of the views, we had a very interesting discussion at landmarks the other night and great deal of concern was developed there and at the Design Review Commission. About the various points of this project. So please look at this. Just because we say that there will be tall buildings, doesn't mean that this site adequately burnishes such an opportunity. And just because there is a project in front of you doesn't mean that it has to be the one. Try to get this one right, in the Baha newsletter this last issue, I wrote a whole editorial about that. In many projects deemed inevitable in this region, it's they're not inevitable. Look across the bay to the presidio, two projects went down. One of them George Lucas museum because the press realized it wasn't going to work. The same is true of the prior Fisher museum. Both of them are headed to better sites, in particular the concentration of the site of the Fisher museum at MOMA. Thank you. You had an opportunity here to see an alternative.

>> M. Alvarez-Cohen: Thanks, John. Kelly, followed by Sally, then Arlene.

>> Hi, I'm not going to take my full two minutes. I'm just going to say that I don't think this is a good fit for the downtown area, the placements of this building. And it would be a shame if it goes forward. Just because I have a little gray hair doesn't mean I'm opposed to higher build things Berkeley or increased density. Thank you.

>> M. Alvarez-Cohen: Thank you for your brevity, thumbs up for brevity. Sally sacks followed by Arlene silk, then Leeza.

>> I'm Sally sacks, and we've heard the word green tonight. At least two kinds of green. One is EPA green and the other is [indecipherable] green. And I'm uncertain that the people who thought they were voting for the EPA green would be surprised to find out somebody, not from Berkeley, has gone off with it. When I first saw the picture of the proposed building, over the graceful Shattuck building, it seemed to me that what we had was building rape. Strange thought but that's what it looked like, this gross gray ogre overwhelming this graceful ugly building. Please give careful thought to what you are going to put in our downtown. And even consider the theaters, I mean, the commercial as opposed to theaters on the main street of Berkeley. I wonder about that. Where's the marquee going to be? Somewhere in the back? Thank you very much.

>> M. Alvarez-Cohen: All right, thank you Sally. Arlene silk followed by Leeza and Judy Shelton.

>> If only we had Denny Abrams here working the downtown wouldn't that be great. The DIA is inadequate, it has a devastating impact on what is the most historic block in the historic downtown. Baha has gotten grants from the national trust for historic preservation, San Francisco foundation, state historic preservation, it's a main street national trust. They
paid for design guidelines which were adopted by the City. And this project is -- goes to address the design guidelines of downtown. It's out of scale. There's really no smaller scale alternative. And this is a list of the buildings that are on the national register and landmarks surrounding this project. So I urge you to find this DEIR inadequate.

>> M. Alvarez-Cohen: Sally? Come back up. Sophie, you have a question?

>> S. Hahn: It's a question for staff that's inspired by your comments.

>> M. Alvarez-Cohen: Do we need to interrupt the public hearing?

>> S. Hahn: It's a clarification.

>> M. Alvarez-Cohen: Go ahead.

>> S. Hahn: Can you clarify whether these design -- are the design standards that she is referencing part of the official review process?

>> A. Sage: There is a lot of discussion in the downtown design guidelines in the EIR.

>> S. Hahn: But that's the same thing she's referencing or is that another thing? I wanted to make sure that the guidelines she's referencing are the same ones that are being used.

>> A. Sage: The document here she held up to be the current version of the downtown guidelines is what we discussed.

>> S. Hahn: It's not something additional.

>> A. Sage: Correct.

>> S. Hahn: Thank you.

>> M. Alvarez-Cohen: Arlene followed by Leeza and Judy Shelton. Arlene already went. Leeza, Judy, then John English.

>> Okay. I'm Leeza, and I just want to talk about the importance of the Shattuck Cinema to the residents of Berkeley and people from out of town that often come here to the City to see the movies that are not shown elsewhere such as foreign movies, indie movies, art movies and documentaries. As a matter of fact, we have already lost seven movie theaters in these past years, 10 or 15 years in Berkeley. We have lost the U.C. Berkeley theater on University, northside on Euclid, act one and two on center, Realto on Gilman, fine arts on Shattuck, and the oaks on Solano. So we are not happy whatsoever about this project and even if a theater is placed in the new edifice of an 18-story building, there will be some years that there will be no theater. Another point is that the Shattuck Cinema is the only theater in Berkeley as far as I know that has access to disabled people and it's very important of course for that reason. And then I'm also concerned about the habitat, or Habitot, which has not been mentioned. I assume that would also be disabled so to speak. Is that my time?

>> M. Alvarez-Cohen: Yes, it is. Thank you, Judy Shelton.

>> I guess what really upsets me the most about this the cultural impact of tearing down this theater doesn't seem to be a concern. This is a college, university town. We have a lot of really brilliant people in this town who want complex movies and independent film and really want to think about what they're watching. We should be offering that to people. We're taking away a theater, like LEEZA said for four years or what are ever,
I personally think it's forever, nothing in the EIR mandates they build a new theater, nothing in writing here. It's all possible. But it's not in writing. So you know we are also told about the fine arts that we were going to get a theater, now we have this marquee that says fine arts and a vegetarian restaurant. The cultural significance of this theater is enormous. Why are you guys allowing it to be taken away? Let them if they're going to build that God damned building let them build it and reinforce the structure of the theater and leave it in place. Let us at least have that. Okay, thank you. >> M. Alvarez-Cohen: All right. Thank you, Judy. John you're up followed by Sandra gay, then Bruce. >> Okay, the project site is not just some ordinary downtown property. Instead it's a very important, as Arlene said, probably the most important historic landmark in downtown. The downtown area plan itself says when you add on to an historic landmark, the addition must be in scale with the historic building. The secretary of the interior standards say the same. However, the draft EIR ignores the elephant in the room the obvious fact that this 12 to 18 story addition to this landmark is grossly out of scale. The final environmental impact report should specifically discuss and identify as a significant impact this disproportion of scale. Now, looking at the draft EIR alternatives, this chapter fails to present and discuss any alternative which would be considerably less in scale, less disproportionate than the project. I think the EIR authors tried to say because it's an infill EIR you don't that. But they are misreading the CEQA guidelines. Relevant comparison, recently issued draft EIR for a big project on Telegraph Avenue, infill EIR, does discuss an alternative in which the height of the building would be only half as much as the developer proposed developer on that site proposes. Thank you very much. >> M. Alvarez-Cohen: Thank you, John. Sandra gay you're up followed by Bruce, then Susan CERNY. >> I'm Sandra gay, Berkeley resident, I live on Martin Luther king, old grove street, I've been here since 1970. And I came to Berkeley a couple times before that when I was a child. And Berkeley has maintained some of its attractive characteristics that I noticed when I came here as child. And I think that it's gone through this growth period, which I was really interested in in order to provide more housing, and more housing for the poor and I thought that there could be housing for everyone. And I wanted to say a mixed use thing, and I love the fact that you could be disabled and still make it in Berkeley. But yet I was very shocked by the descriptions of this project as they developed, did not resemble what we had been looking for and to recognize what it was exactly that we were discussing. And when I found out the theater was going to be demolished, I was very startled and I realized that because of the different address, referring to it as the hick's addition as an address on Harold Way, even when I looked at the sketches I didn't understand them I know I was preoccupied with other concerns and I was busy and I was in pain and I have had a lot going on. But I think it was left so that it wasn't clear, and many people I
talked to, many people involved in it were very startled.

>> M. Alvarez-Cohen: Thanks, Sandra. Bruce you're up followed by Susan then Paul.

>> I'm Bruce, I'm a resident of Berkeley and I am a union organizer and have been associated with the workers at the Shattuck Cinema in Berkeley, now for eight years. I'm also, we also have, represent the workers at the Embarcadero in San Francisco. Consequently, I have had numerous opportunities to be in the Shattuck theater. I have been there upstairs, downstairs, around and I consider it to be a place where people like to go to. People show up there and are enthusiastic about having the opportunity to be in that building, to see movie there is. You know, I'm really opposed to this kind of a change like this one when it doesn't have to happen this way. I'm not going to take a lot of time here, but speaking of Cinema and the things that we're most concerned with, what we are talking about right now, one word comes to mind, that's Godzilla. Thank you.

>> M. Alvarez-Cohen: Thank you. Before Susan before you come up, Judy Shelton can you come back up to the podium Judy? We have a question for you we missed. We wanted to make sure you didn't leave.

>> S. Hahn: Apologize for calling you back up but I had a question, and we were moving so rapidly I didn't get a chance to ask you. I would like to better understand, the project is proposing movie theater. Is it the use that you want to see preserved, is it facade and the marquee, is it -- because the project doesn't actually take down the Shattuck-facing building. So that facade remains. And I really want to understand what is it that is -- is it the building, is it the use, is it --

>> It's kind of all of it. But here's my -- first of all the theater has a great sound system. And it's a place that people like to come. To it has a certain amount of charm And it does face the street. And it just creates a certain flow of interaction that I really like. I just like the feeling of it. But another thing is that, they are going to demolish this theater, am I wrong about that?

>> S. Hahn: My understanding is that they're not demolishing the Shattuck Avenue facade.

>> The theater.

>> M. Alvarez-Cohen: This isn't a dialogue. It's Q and A.

>> S. Hahn: Is it the facade, is it marquee, is it the use? What is it you're concerned about.

>> It's the use, the time it will take to build a new theater.

>> S. Hahn: So the gap.

>> It's -- there's no necessity to take this theater down. Leave it alone. Does that answer?

>> S. Hahn: But another theater that was also well designed that had good sound and had a community, you know, lobby that worked for the community or something, would that -- would that work?

>> If they're really, really going to do it. That's one thing I don't know if they are, it's not in the EIR. Also we would be without any of these kinds of films for four years, at least. Probably longer. And that's a big loss to this community.
S. Hahn: Okay. Thank you. Want that to be understood.
S. Hahn: Because the plans show a theater, I wanted to better understand. Thank you.

Is it legal? Is it a legally binding thing?
S. Hahn: We're not there yet but you helped me.
M. Alvarez-Cohen: If you have question us can address them to staff. We ego back to the public hearing. Susan you're up followed by Paul then Don Goldnacher. Come on up.

I'm Susan, and I actually sat on the downtown association board of directors when it first started and it became a main street project. A main street project is revitalization through preservation and infill and things like that. So the downtown area plan and the zoning district, the C-DMU zoning district, while it does provide for several tall buildings, 120 and 180 foot buildings, this one ways 194, I understand, it does not guarantee a particular site. It's just a general somewhere in the downtown. Unfortunately, this site has been chosen for the first of the tall -- too tall buildings. One 194 feet and the other 120. It happens as others have said to be surrounded by the cities most historic buildings, the Shattuck hotel, the arm strong college, you know the library, the post office, it extends out into the civic center. You, the ZAB, have the capacity, and the justification, to deny the project as proposed. Through a close reading of the D.A.P., the downtown area plan, you can easily make the findings that this project is inappropriate for this particular site. Thank you.

M. Alvarez-Cohen: Okay, thank you. Now we have Paul followed by Don and then Eric. -- Aaron.

We've heard about the will of the people. Actually, the people of Berkeley want to keep this landmark theater in its current form and current location. I'm chair of the committee to save the Shattuck landmark theater. The EIR ignores the cultural impact removal of the Shattuck theater. It's a vital cultural resource at the center of both our downtown Berkeley arts district and business district. It is the central component contributing to the uniqueness and vibrancy, that characterizes our Berkeley culture. Our committee has been working on this now for just 10 days and in the last 10 days, we've collected almost an unbelievable 1,000 signatures opposing the demolition of the theater and we welcome will be glad to make them available to the Board to see. 80% were from Berkeley residents, 20% from movie-goers throughout the larger Bay Area, from as far away as San Jose, people who came especially to town to do their business here and to go to that movie theater. The signers of these petitions, to the one, over 95% including our biggest activists of the post office did not even know that this process was going on. Is this the will of the people? And the last two days, the website which you'll hear about, has now been created which has brought in most of our most important filmmakers in this area to oppose this project. Berkeley is the center of film and it's an historical issue and California, the history of California is repleted and wrapped up in the history of film here. Please listen to the people of Berkeley or consider the
thousand people who signed this petition. It will be 2,000, 3,000 by the time we get to the Council. They do not want a replacement to this theater, stop the demolition of the Shattuck theater, do not approve this EIR to save the Shattuck theater. And to remove the historic Hink's department store landmark.

>> M. Alvarez-Cohen: Thank you. Don, you're up followed by Erin then Tim Frank.

>> I'm Don, I am a resident of Berkeley and documentary Mel filmmaker in Berkeley, a small business owner in Berkeley. I bring moneys into this community. When we produce films. I'm speaking on my own behalf but I can tell you that I did begin the Internet petition yesterday and a number of my colleagues in the filmmaking community are very much in support of what I am saying that we are opposed to this project because of the dire risk of losing the landmark Shattuck cinemas in the near term plus landmark losing I don't know how many tens of thousands of dollars it just invested in refurbishing the entire complex of movie screens, a couple of blocks away. I would say, would I ask the following questions. Why is infinite growth on a finite planet such a good thing? [APPLAUSE] why must we continue to grow at any cost while you speak of the double-speak of green, this is going to add 170 parking spots, so that means another 170 cars downtown, coming and going, I don't care if they're zip cars or not zip cars, we have more car density. Since I'm a filmmaker and my last film was "Heist: Who stole the American Dream," do you understand the economics of the film business and of film exhibition? Because if you mess with this building you will effectively double the leasing costs per square foot for landmark to have its theaters there. If you dig down into the reports here, you will see. And once that happens do you think landmark will be here? And if they are what's the price of the tickets then?

>> M. Alvarez-Cohen: Thank you for your questions. Can you come back up, is there a question, Don? We have a question for you. Igor?

>> I. Tregub: Hey, thanks, Don. What was the math that you did to arrive at the conclusion --

>> From their website. I spoke with Mark Rhoades this afternoon, he pointed my to the website, and I started reading. So in fact I probably have it here on one of these pages, that landmark -- it says that they're going to eat $25 million cost over 20 years. How gracious of them that they're going to do that to accommodate the community.

>> I. Tregub: Just answer my question. I apologize.

>> It's in their stuff right here. It's somewhere between pages 19 and 23. Where you see the leasing costs. As they currently are versus what they would project it to be.

>> I. Tregub: Thank you.

>> M. Alvarez-Cohen: Okay. Erin you're up followed by Tim Frank and then Gene a more land.

>> Thank you for hearing me, I'm Erin Dean, I live at the corner of Jefferson and Bancroft. I moved in about a year and a half ago, we bought a house. I've just become involved with the committee to save the movie theater about 10 days ago. I've been
collecting petition signatures, I have 315 that I collected within about 6 hours. I actually stood in front of the movie theater three different nights for maybe two hours apiece. I want to tell you the public has not been adequately notified about the closure of this movie theater. Because I asked most of these people and they don't know. Not a single person knew. And these are people who are going into the movie theater. These are people who care not just the passersby who are walking by. These are the people who use the service. Not one knew, not one. There's been someone falling down on the job here getting the word out to the public what's going to happen, we're going to lose our Cinema. I actually, I don't know if you got it, I typed up all of the comments, 47% of the people who actually signed my petition wrote a comment. Almost 50% response rate, that's incredible, shows you how passionate people are. You look at page one, the ones that are the most important, row 17, person says the public needs more time on this. We are asking you to extend the period of public comment by one month to December 19. If you look on page 4, row 100, also highlighted in red, it says public needs more information. The public is speaking, we want more time. If we get the word out I guarantee people will not want to lose this historic landmark. The second thing, this is really going to have a negative impact on Berkeley business. If you look, there's people's words, without this theater I'm going to San Francisco. That's number 39. Number 66, we come to Berkeley 2 to 3 times a month for dinner and a movie and spend money here. I come with my family from Fairfield, if they tear it down we're going to San Francisco.

M. Alvarez-Cohen: Thanks, Erin. Erin, Erin, Erin, come on back up, we have another question for you.

S. Hahn: I have kind of the same question for you as I had for the other speaker. Is it the use, is it that particular configuration, is it this particular operator, is it the number of -- I think --

It's the historic feeling with the ceilings, they're gorgeous, you don't get that architecture anywhere else. They can put in a state of the art movie theater that will be out of date in 50 years. It's not going to have lasting quality. It has a nice small comfortable venue, it's cozy but they have fantastic sound. They have the painted walls. So it's the facility itself. The location that, marquee really does, it was interesting standing on the corner, because people, it's a triangle of movie theaters. You see them running between the movie theaters. Maybe they think they're going to the United and they go to the Shattuck. They see, oh, man, there's other place is can come. The marquee is facing Shattuck. Some one commented, you move the marquee or the entrance to the side street who's going to see it? You actually see that marquee from the BART station. It's the whole package deal. Build over it, don't destroy it.

S. Hahn: Thank you.

M. Alvarez-Cohen: Tim you're up.

Thank you very much, I'm Tim Frank. And I wanted to address a number of the comments that I've heard from the audience tonight
that I thought were interesting. Beginning with this notion of what represents EPA green. Well the EPA actually has an office of smart growth. And the office of smart growth defines that as basically putting development in a place where you have the lowest carbon emissions, et cetera. Now Berkeley happens to have a jobs housing balance. We need new housing built here. And the downtown area is one of the lowest carbon places in the entire Bay Area to place housing. This is an appropriate place to do it. The question before you, how you want to address this issue as we look at it through the eyes of CEQA. So a number of years ago, I actually helped the Sierra club file an Amicus brief in Berkeley versus Bowman addressing the Sacramento senior homes. The issue in that case involved views, the look and feel of the neighborhood. Marie Bowman did not like the project, but the City actually didn't think that the project was imposed a significant impact. The lawsuit delayed the project and it was a serious setback. The question before you tonight, one of the questions, what about the views from the campus. The campus has given you clear direction that the view from the Campanile is not significantly impacted. I urge you to follow the campus recommendation. And honor the staff's recommendation to you. Regarding this project. Finally, what I would like to note, regarding the scale of the project, four years ago the voters of this town voted by 64% to actually approve the scale of the project that you are looking at. And that decision was actually ratified by the voters just a week ago. And it was a 74% majority. Clearly --

You have another ten seconds.

>> Well, a simple thought is that there's a clear majority in the City that actually favors the scale in the downtown. It's good for the environment and it's appropriate for you to approve.

>> M. Alvarez-Cohen: Thank you, Igor?

>> I. Tregub: Yes. Just wanted to get clarification for myself. You said honor staff's recommendation. The only one I'm seeing is hold a public hearing, was there a different recommendation beyond that.

>> What I'm saying you do not need to layer upon that a new condition which is unwarranted and which would actually potentially jeopardize not only this project but also imply a new present dent in the downtown that I think would be unfortunate that would undermine the utility of the climate action plan and in fact stand as an impediment towards implementation of the will that the people have just expressed.

>> I. Tregub: I understand, thank you.

>> M. Alvarez-Cohen: Thank you, Tim. Gene a, followed by Chantel, then Rachel.

>> I'm GINA Moreland, founder and director of Habitot children's museum I understand you aren't going to address the community issues of this, but even though we will be significantly impacted by this project if approved we have not been included in the EIR process, and we have not even been solicited for input. Currently Habitot is not included in the community
benefits package that was submitted by the developers. The proposed project if approved will force Habitot children's museum to close its doors. We believe that will be a significant loss of community benefit to the citizens and city of Berkeley. HABITOT has welcomed over 1 million visitors since 1998 when we opened to the public and still get 60,000 families, children, preschool teachers, grandparents every year. Our forced relocation to virtually any building is not going to be like relocating an office. We will have to upgrade significantly to public assembly occupancy status. And recreate all of the special exhibits and learning environments at great costs. Hundreds of thousands of community dollars have been raised from individuals, businesses, corporations, foundations and even government to invest in the capital infrastructure of our children's museum. All of that is going to be wiped out by this project. We will have to raise these investment dollars one time again in order to keep Habitot open. We're asking hill street realty to give a look to our relocation which represents a fraction of that you are current community benefits package as well as a track of what we have to spend to relocate and build out a new building. And we've been advised to at least mention that the developers are asking for height extensions and extraordinary allowances in this project which should require over and above give-backs to the City. None of the give-backs currently fall into the over and above category as far as we see.

>> M. Alvarez-Cohen: Thank you. Chantel followed by Rachel and then Steve.

>> I'm Rachel, thank you all. I work for Habitot children's museum also a parent who has a 5-year-old who has basically grown up there. One thing many people don't know it's not just a play space, it's where families learn and grow. My job exclusively is serving the most underserves families, children with special needs, even if parents, homeless families, we partner with multiple agencies many of them in Berkeley, drop-in center, a better way through looking glass to bring families for free programs, education, for commitment to family, for children, learning and growing. And none of that can happen without our space. We understand we have to move, we know that development is inevitable. But we do need a little help to get to the next step. Thank you.


>> Hi. I'm Chantel and I'm the acting board chair of Habitot. I'm speaking here to represent the Board's investment in and support of Habitot. And the move that is pending. As a board member I'm here to let you know about how since being notified of the building's change in ownership the Board, staff, and a long-time friend and investor of the museum have worked tirelessly to find a new home for the museum. And we as a board are deeply committed to ensuring that Habitot endures and provides the crucial programs that Rachel talked about that benefit thousands of children, families and caregivers throughout Berkeley and the East Bay. The reality, though, is that relocating is highly expensive as GINA outlined and we're
seeking the developer's help which has been outlined in a letter you received. Specifically we really need ZAB's help to ensure that we are represented in the community package, that the developer is creating. The support that these finances can provide directly impact the immediate community and provide genuine value throughout Berkeley. I'm a mom, I'm expecting number three, and I am a proud Board Member. And I believe tremendously in the importance of a children's museum to fuel the imagination, creativity and innovation that they have. So really I urge you to offer help and ensure that Habitot is included in the community package. Thank you for your time.

>> M. Alvarez-Cohen: Steve, you're up. If anyone else wants to speak, that's the last card I have. You have to come up with a card.

>> Good evening commissioners, I'm speaking as an individual. The proposed project in its current configuration will partially block the views of the Golden Gate and San Francisco way down Campanile way. The draft IR acknowledges that and goes on to conclude without any basis and expert opinion or relevant documentation that the view down Campanile way is not historic in its own right. Changes in the project need to be contemplated. This is absurd, it's CEQA sofistry. I'll read you the whole section. Campanile way exists because of the view. The road was laid out more than 130 years ago when the campus itself opened because of the view. The view and the road and the view came before the Campanile. This is one of the most historic features of Berkeley, character defining elements and one of its most popular locations. Go to the base of the Campanile and you see campus towers, visits, faculty, students looking at the straightaway at the Golden Gate a magnificent view that will be partially blocked. This is a huge detriment to the character, physical setting and cultural history of Berkeley. It will be a permanent stain on the reputation of Berkeley and a bigger regret forever. The remedy to save the views is simple. The building massing should be changed so the impact isn't affected. An EIR needs to acknowledge the historic view impact and proposes a sensible project impact. What you should do is what landmarks did, basically say of course this is a significant view and the view impact should be changed in the EIR analysis from not significant to a significant but mitigatable and the developer should be asked, this EIR should present a mitigatable solution that preserves the view. I have a lot more to say but I'm out of time.

>> M. Alvarez-Cohen: Thank you. There's a question.

>> S. Hahn: What is this item that you were referring to?

>> Okay. You may not have had the opportunity to look at the whole EIR. Let me read you one section of it, how they justify saying not significant. The views from Campanile way are not historical resources in their own right. Instead they are a character defining feature of the landscape element that has been identified as a contributor to a cultural landscape. As such the view impacts associated with the proposed project constitute a change in the element. Because its to materially impair Campanile, such they will no longer be eligible to list
this historic resource. The project is going to be constructed to block Campanile view's view, changing Campanile way so it's not an impact. It goes on and on like this.

>> M. Alvarez-Cohen: Thank you for the answer to that question.

>> Sorry, I didn't get a chance.

>> M. Alvarez-Cohen: Fill out a card when you're done. Say your name for the record. You can do it after you're done.

>> MONI law, resident of Berkeley, downtown employed here, live here, went to school here at U.C. Berkeley and University of San Francisco. I just wanted to actually reiterate what was stated with regard to the tortured rationale or lack thereof on the EIR and analysis. I don't think I've read anything quite so depressing. But I also am a consumer of that view. I attended U.C. Berkeley and mentor students there presently and I stand there often and I take people from out of town, that's where you stand. That is a historic, beautiful view. Thank you.

>> M. Alvarez-Cohen: All right. Anyone else want to speak? I'm going to close the public hearing. Now we bring it back to the board. I've been advised some people want a break. So this is a natural demarcation point I think the Board is going to speak for more than a few minutes. We won't take ten minutes, we'll take five minutes. And I have 10:25, we'll resume at 10:30.

[Short recess]

>> M. Alvarez-Cohen: Everyone take their seats, let's resume. Are we all here? Yes, we are. Can the members of the audience please sit down or quiet down, please. Okay, well, now that the public hearing tonight is finally over, the last public hearing, I can slow down and speak a little slower on my last ZAB night. So here's how we're going to run this discussion for the Board. We're going to take five minutes, each Board Member has five minutes to make comments. You don't have to use all of your five minutes but you can. When you're done if you have something you want to say we'll come back to you. We'll start on the right side with John. John, you have five minutes, welcome to use any or all or none of it.

>> J. Selawsky: Thank you. And I do understand that we're really supposed to just make comments about the EIR. That's going to be hard for me to do. But I will try to only do that and phrase it as such. Well, I've got to say there are some things in this project do I like. 2 and 3 bedroom ash -- are these apartments or condos? Can somebody answer that. I heard the word condo come up.

>> A. Sage: They're asking for both options in their permit.

>> J. Selawsky: We don't know which is which?

>> They ask the permit allow the flexibility.

>> J. Selawsky: This could be a combination or one or the other.

>> Correct.

>> J. Selawsky: We don't know which at this point.

>> A. Sage: You have to bring up the applicant to see if they're leaning one way or the other.

>> J. Selawsky: I did note 2 and 3 bedroom apartments or condos. If they're apartments I do like that part of the project. Because I don't believe we're building enough family housing in
this city and that is of grave concern to me. I think we're squeezing middle class families out. I don't see how young families can move in to Berkeley given the price of housing. And I'd like to see more family housing built in all our projects. I am - I would like to see an alternative EIR that incorporates less height and less density, more in scale with the downtown surrounding neighborhood. Because I think the height is excessive. I'm not sure, is it 190 feet or 194 feet as I heard? I think it's 190 as I saw.

>> A. Sage: The main portion of the building is 180 feet and then there's a mechanical room that extends above 180 feet.

>> J. Selawsky: All right. It really is out of scale with everything surrounding it, out of scale. It's massive. The facade, the glass, and the way it is designed somewhat relieves that but not entirely. And I think once it's there it's going to be obvious how massive it is. So, again, would I like to see an alternative that has less height. I'm not sure why we need 180 feet, in that location. I'm concerned about that open space. We have one amenity, the open space in the corner, which underneath, it's actually kind of partially open because it's under the columns. Is that correct?

>> A. Sage: Yes.

>> J. Selawsky: Surrounding that open space, on the site plan are proposed restaurant and cafe. And when you look and see open space and sidewalks where cafes and restaurants exist, they inevitably end up on the sidewalk or in the open space. That is of concern to me. If that is indeed public open space even if I don't want it taken over by restaurants and cafes. Because that no longer is public open space. At that point. And I don't know how we address that or if we can even - if we can address that. But I think it needs to be addressed. One of my questions for you, when it gets to that point, I believe that utilizing sidewalks and other places for tables for restaurants is administratively handled, doesn't come back to the ZAB or Council or anybody else, correct?

>> A. Sage: We would typically specify in the conditions of approval --

>> J. Selawsky: It could be a condition of approval, could be in the use permit. That was one of my questions, all right, good, thank you.

>> M. Alvarez-Cohen: Thank you. Keep going, you have another minute.

>> J. Selawsky: One minute? Okay, so I want to address, it's not in the EIR but I've seen the letter and they spoke tonight, Habitot. Which I believe is a real asset downtown. I work at the downtown "Y" and kids programs, I have for over 20 years. And I've heard continuously over those years from families and kids coming into the "Y" what hang out in kinder gym, child watch, they go to the library, and they go to Habitot.

>> M. Alvarez-Cohen: Before we move to Denise, in addition to your individual comments the Board can actually make a motion that can be added and approve a motion for the public record. Denise, you're up.

>> D. Pinkston: I have six major comments and I'll try to get it
done in five minutes. First one is regarding parking, traffic and TMP. The EIR talks about it generally and says that there aren't hugely significant traffic impacts. But part of the project proposal, project description, is that they have a very aggressive TMP as Mark Rhoades suggested. I think to count as very aggressive you have to do things beyond the order, offering free bus passes to residents of the building is becoming fairly commonplace, it's no longer that aggressive. However free Clipper cards is significantly more aggressive. Clipper cards allow you to take BART, bus. I think you should be encouraging people to take bus or BART. I think the Clipper card is important. You don't have to necessarily buy everyone a pass, but you can subsidize a Clipper card, offer to people who want it, you don't have to give it everybody. There are other ways of making sure that the benefit is more usable than just an A.C. transit pass. The car share stall should have car share cars in them, not just free parking. We have had this discussion before. I'm confused by the -- and people have raised questions about the theater. I think if a new theater is provided that's a gee replacement given that development is going to happen. I don't understand this theater. I'm not sure how it works where the lobby is, how it's visible to the public, where is the marquee. How is that going to function? Then what happens if landmarks doesn't take it. I think that's a legitimate concern. Is it possible to reconfigure the space for live performance venue or some other community serving activity? Is it possible to do something else with the space? The EIR needs to talk about that, if this is the bank shot community benefit we have to know what it is and how it works. On the historic views I looked at many EIRs and historic views from a long distance, I've never seen classified as a view that needs to be mitigated. The view of this building from the Campanile is not a significant impact under CEQA. I went to Cal, studied planning at Cal, got a masters degree, closer to a Ph.D. and worked on the first generation of the downtown plan including the founding of the downtown business association and the main street project and I don't think view resources protection from long distance was intended to be something to get into. I do think the building offers historic resources to push to mitigate. The language talks about the opportunity to salvage building materials or reuse building materials and they will be offered to people who might reuse them. It's unclear what opportunity and offer means. Are they being given to local companies that do recycling? I know memorial Stadium lumber from Cal is in projects around the Bay Area because that was successfully salvaged. I'd like there could be more attention to that if we move ahead, remove these buildings, including specifically contacting local recycling companies, not just putting an ad in the newspaper saying these materials are available. Wooden duck, megasalvage, a lot of people specialize in this that should be contacted. I think we should be reusing this stuff onsite to the extent possible. If there's great antique windows with good mullions you can use them in art, building funks, a lot of ways to use stuff onsite rather than just photographs. The applicant
should think about that. Under the category of community benefits, again, in my mind a community benefit is something that is beyond business as usual. And I think that having open space underneath your building and below and improving it doesn’t count as a community benefit. Improving the sidewalks around your building isn’t a community benefit, that’s business as usual. To count as community benefit it needs to go beyond. One way is through some sort of community benefit cultural resources payment. I don’t like the idea of paying tenants to relocate whose leases have expired. If there is a category under the community benefit regime where a fee could be charged and redirected to a valued community resource like Habitot I can see supporting that. I think that community benefits need to be visible around the project and since this project is advertising its pedestrian benefits, I think let’s make the walking experience from BART which is the primary transit link to the building much more pedestrian friendly by not just rebuilding the building sidewalk edges but also the entire Shattuck edge from the BART stakes around the corner so you are creating a pedestrian experience connected to BART around the block including around the historic building facades being preserved.

R. Allen: Just one comment. I guess Denise and I disagree about the community benefits. The community benefits is one of the poorest written parts of the downtown plan I can imagine. There’s no magnitude, no determining what is important. We have had this discussion before and I think this is really something that the City Council, maybe with the planning commission need to pin down and pin down quickly so we have some idea of the extent of what is intended and what our jurisdiction should be. That’s all I have.

S. Donaldson: I concur with a lot of the comments. I have a few questions about the Cinema. What Denise said, I couldn’t figure out where the entrance was or the lobby and how that functions in relationship to Kittredge or Shattuck. It would be good to know about that. As for the historic old theaters they were built in the ’70s or early ’80s. They were -- they’re not historic in that sense. They look pretty inside in a certain way. But I think if the landmark Cinema is involved in the design, they know what sells and works well. They know what will bring people to the theaters and make them marketable. If you saw the remodel of theaters they did at Embarcadero center, those are awesome theaters. I just want to make sure the agreement for the theaters is really clear and affordable and works for their business model to bring it back. I like the mix of one, two, three bedroom units, it does do that family housing thing which I think is important. And the other comment about A.C. transit pass, it makes much more sense to look at Clipper cards. It’s more flexible, it’s just people would much prefer using it. They’re going to take BART, not A.C. transit as much. That’s my only comment about that. Thanks.

G. Williams: I have a lot of comments that I’ll reserve for
Design Review and ZAB when the project is before us for approval. And just confine my remarks to the EIR. And I'm puzzled, the EIR finds there's a significant impact of the project on nearby historic resources but lays out four mitigation measures that if adopted would reduce to less than significant. One of those measures is measure 2-D, says the recessed entry plaza at the corner of Harold Way, page 46 of the historic resources technical report, somewhere else in the body of the report, but I'm reading from the historical resources technical resource. The recessed entry plaza shall be replaced with an entry design that maintains a zero lot setback characteristic of the historic resources and the larger Shattuck commercial corridor. And then it says the relevant Berkeley design, downtown Berkeley design guideline that yields that mitigation states building shall frame and define the street as an active public space. Throughout downtown buildings are publicly built as street facing. The historic street wall of facade should be preserved. Another one, maintain a zero setback build line at the ground floor on the edge of all downtown streets for commercial and higher levels of activity anticipated. The only exception to this may be to provide a suitable defined usable open space. The project proposes the plaza at the corner of Kittredge and Harold as a privately owned open space. That fits well with the exception. I think it's erroneous to conclude that mitigation measure 2-D is required. I would hope to see that corrected in the final EIR. Thank you.

M. Alvarez-Cohen: Thank you, George. Igor?

I. Tregub: Thank you. Being the eighth person to go, I'm probably not going to say much of originality. But I did want to associate myself with a few comments. First of all, I free with Denise about extraordinary community benefits for transit being beyond transit passes which is now in multi-family downtown projects. This is sort of to Tim's point, if we are going to do compact development and let's push the envelope in a building like that, and provide the flex cards in the building and provide Clipper cards and be really creative about what else to provide to encourage walkability, bikeability and public transit and make it easy for those who would frequent the building. I like the housing mix of 2 and 3 bedrooms. I think it's very important that a portion of those units be a different level of affordability and some of them be affordable and maybe this is not this particular type of project that the developer has in mind. But I think it is important. We are not producing enough affordable housing in Berkeley. The middle class is increasingly getting squeezed out. I wanted to ask how strongly the preservation and context alternative is being considered. I think a number of other comments have been made about this. Looking at the drawings, it does not seem to me yet that this building completely flows into and compliments the fabric of its surroundings. It's not clear that it is -- the version that is in the EIR in front of us, anyway, is context alternative with its surrounding buildings. And this is going to be a very important building for years to come. It would be important to get it right the first time. That means
really looking at these alternatives. Making sure that they --
that the mitigations that are being proposed truly are in there.
I wanted to mention Habitot once again. I agree with Denise in
that it would be my preference to do something like paying into
a fund that provides relocation services or other services for
Habitot for other buildings. If that is -- other uses. But if
that is not possible, I think Habitot, given all of its
contributions to the Berkeley community, that needs to be
honored and I think what they're asking for, the $250,000
relocation costs, is a pittance for what they're providing. And
I felt that those discussions have not been happening yet, I
hope they seriously begin to happen. I would like to see a
better discussion of the different alternatives in the EIR. I
think you heard lot of public comments today. I think those who
spoke are very concerned about what this building is going to
look like. I would like to see something in front of us where
when it comes time for us to approve the final EIR, we go into
it with eyes wide open. And we know exactly what we're voting
on. And we know exactly based on the alternatives what the
trade-offs are of voting for each one of those alternatives. And
finally, I agree with the Design Review Committee comments,
impact fees, the analysis should show that the view corridor has
a width and not only the central access point. And the
alternative that some supported for keeping the existing
landmark at the southwest corner. Thank you.

>> M. Alvarez-Cohen: Thank you, Igor. Sophie?
>> S. Hahn: Thank you. So, one of the speakers asked if it would
be possible to extend public comment for a month. When does it
close, is it today?
>> A. Sage: Wednesday the 19th.
>> S. Hahn: Can we extend it somewhat? I don't want to use all
of my time on this.
>> A. Sage: We have to have a discussion with staff.
>> S. Hahn: I'm just going to ask that that be considered.
>> A. Sage: You can make a motion.
>> S. Hahn: I'll consider that at the end. I'd like to speak to
the view corridor I grew up in the Bay Area. I have crossed the
Bay Bridge 10,000 times, maybe more, including lying down in the
back of my parents station wagon as girl looking up, watching
all of those cool things that you can see when you look up which
you can't do when you're driving. Coming across that bridge,
you're arriving in San Francisco, there were two towers,
beautiful and framed off in the sunset and sky. And then about
10 years ago, five years ago, somebody built a very, very tall
building right next to the end of the bridge. And it's a
building that the architect, Mr. Peterson showed us once here on
a slide as architecture imitating a rotating tower fan. Some of
you may remember that. When you drive across the bridge and you
look up as you approach San Francisco that building visually is
smack in the middle of the view. It's an abomination. I don't
agree that the view from the Campanile, belongs to Emily at U.C.
Berkeley. That view she does not speak for that view. It belongs
to the people of the state of California, it belongs to you and
me, and it is absolutely a cultural resource. And I feel very
strongly that it needs to be addressed fully in the EIR and I
would also like to see actual plans that mitigate or eliminate
the cut on that view corridor. I would like to mention that the
trees are not a permanent feature. They might be thinned, they
might be cut down, they might not. But the fact of the matter is
they are not set in stone but this building will be. I feel very
strongly that the EIR needs to take this very seriously. I don't
know if it can be raised to some other level of urgency. But to
me whether it's addressed in the EIR or a straight detriment
question when this comes before us, I'm alarmed by the dismissal
of this as a potentially significant impact. The Cinema I'd like
to see that explored, all of the facets raised. I have come to
understand that this operator is unique. Not only talking about
preserving the theater space but preserving the programming that
is unique and adds to Berkeley's culture. Regarding communities
benefits, we don't need to make this up this, the downtown area plan
has a list of suggested community benefits. I think it's very
important for staff and for developers when they come forward to
look back and not make these things up of the whole cloth. I
meant to bring that pain with me but I didn't but it's there.
One of the benefits is childcare. I would think that Habitot
might not be classic childcare but might fall under that
category. When we're looking at community benefits we should
look at what the downtown process had put forward. We're not
bound by it, but we should look at it I would like to see that
considered. Regarding historic alternatives, I'm not sure who
generates those, whether it's the architect for this project who
clearly would be invested in their own design. I would like to
see, perhaps I'm wrong, but I would like to see some very well
articulated historic alternatives from architects who specialize
in this and not just massing but actually a little bit more
detail. What are really nice sort of historic alternatives look
like here in massing and in its detailing. This building is in a
unique place, at the center of our most important historic
resources. I'm not opposed to the look of this building but I
don't think it belongs here. Inspired modern would be great but
you have to hire some one really expensive. So my sense is that
a sort of historic alternative may end up being the best.

> M. Alvarez-Cohen: Thank you. Right on time. Prakash?

> P. Pinto: I just have a few comments. I think the project
brings good density to the downtown and it does make sense. My
comments are from the EIR itself, I'm looking more at the urban
design aspect. There's been a lot of discussion about the view
corridors and sheds from the campus. I would make the argument
one view is actually the view that's not in this report, is from
Shattuck looking north towards what this project looks like. I'm
very concerned about other projects that are coming online and
what the skyline of the downtown is going to look like. From all
views, particularly in this view because it's a view that is
historic, if you look at many of the historic postcards of
Berkeley when the train station was off Center Street, it was
prominent view. I think that's a view that needs to be
considered as part of the EIR. I want to talk about the U.C.
view. I think in order to put it to rest or make some
determination I think we need a better analysis done. I was a master planner and worked on the campus plan in 2000. I'm quite familiar with the various iterations of the master plan from the Bernard plan which won the competition to John Gillen's plan which was done and the new Century plan. And this view is an important view; it is an established view and it's a direct relationship to CEQA. I do any that the landscaping has been legislated and overgrown so it's giving us a limited view. But I'm not saying that this project is impacting that definitely. I'd just like a little more analysis and rigor. Besides just the campus architect who says that we're not -- it's not important to us. Because I would argue that there are professors, the department of architecture argue that it is. It's all in who you ask. In terms of the -- I'll let define review handle the architecture design. I am just really concerned about the design of this building. It's an important prominent building. It's schizophrenic to me, doesn't know what it is yet. It's trying to be contextule or trying to be modern, somewhere in between that's leaving me dissatisfied. I have faith in George and Bob. They'll work with the design. It's in process. But it is unclear to me. And we need -- last thing I'll say about Habitot as one of the board members who has young kids and uses the "Y" and uses the library and uses Habitot and the farmer's market that loss is a significant loss that will be felt by many, many families in Berkeley. I want to reiterate what John said earlier, I have to just tell you, you've done a great job at Cal watch, my son was there, he saw John every Saturday. It is important, it's an important social fabric of many families who come to the downtown. Part of our Saturday and Sunday weekend ritual. It's something to consider here. And I don't know the answer yet but I would like some consideration for that. The rest of my comments I they were handled by everybody else. Thank you.

>> M. Alvarez-Cohen:Thanks, Prakash. I don't want to be redundant with board members who may have made great comments. I just want to add some emphasis on it. It would be ironic, maybe tragic, if this project with 300 or so units brings that many new residents to the downtown but then takes away some of the attractions to the downtown that is magnitudes of order more, many more people to come to the downtown. When my kids really enjoyed coming to the downtown to use the YMCA, use the library, use Habitot. If the developers can just keep that in mind, you create a great residence but don't redo you see deuce the attraction to make the downtown a place where people want to come. You are defeating the purpose. That's the emphasis I want to make. Now that we've gone through five minutes each, members want to say a little more? John?

>> J. Selawsky: Thank you. Thank you for that comment, Mike. I didn't get around to speaking about the theater. There's no need for me to go into the detail, it's been said by audience members and members up here on ZAB. But I am concerned about the loss of that theater. Even if it's just a temporary loss, because I don't believe they're going to be able to move back in after 3 or 4 years, relocating somewhere else. That is not going to
happen realistically. So I would like for the people involved to work together to come up with something that might work. And I don't know what that is. I'm not an architect. I'm not a builder. But it seems to me that something could be worked out, if the will is there. I'd like to see that. At least attempted. Thank you.

>> M. Alvarez-Cohen: All right. Any other board members, Denise?
>> D. Pinkston: While we're looking at pretty pictures of the building, I have a few more minutes, I'd like to offer up, share some of Prakash's concerns about somewhat muddled design, the glazing pattern. I like that the street wall, I guess on Harold Way side, is established and consistent in its rhythm with older buildings in the downtown some modernist black canopies and stuff that are okay. But above that elevation, it starts to get confused. It could be really, I think, unsatisfying in one version of the renderings, the glass panels are all different colors or shades like blue and green. And then another color rendering it looks like if not glass panels, just green panels running up the side of the building. This elevation. I'm not sure what we are looking at -- that's the elevation, okay. Real work needs to be done on the design, with this big building, so that it appears as multiple buildings not a Giant institutional dorm building in downtown Berkeley. I think there's some gestures towards that but I don't think it's all the way there yet. Before we get -- Design Review will take that you. I wanted to share those concerns. The EIR mentions some of the retail facades are still two store front glazy and not historic enough. And I think that's really, really important when you try to have a new building fit into an older retail district. Make sure that ground floor rhythm is broken up. Volume patterns are smaller, store fronts appear small even if the stores are bigger.


Bob?

>> R. Allen: Just so the Board knows this particular design, has not come to Design Review yet. We'll see you in however many months it takes to get there.

>> M. Alvarez-Cohen: Igor?

>> I. Tregub: So, I realize that time is money and that there is this expedited CEQA approval in process in effect. I any it would be entirely reasonable to extend the public comment period on the EIR until December 1, that's approximately two weeks. To be honest with you, even as a Zoning Board member who received this huge document a few weeks ago, I'm still in the process of poring through it. If I'm still poring through it what does that say about the rest of the public who may have just found out about this literally days ago. I'm going to make a motion -- maybe staff can provide guidance, can we actually make a motion to extend the review period or do we just recommend it?

>> A. Sage: You can make a motion to advise staff that the comment period should be extended.

>> I. Tregub: That will be my motion, to advise staff that the comment period be extended until December 1.

>> M. Alvarez-Cohen: Is there a second?

>> J. Selawsky: I can second that.
M. Alvarez-Cohen: Are you done with your comments, Igor?
I. Tregub: Yes.
M. Alvarez-Cohen: We'll get on Sophie's extended comments. First any discussion on the motion? No discussion on the motion. Let's take a roll call vote.
G. Powell: Board Member Hahn.
Yes.
G. Powell: Board Member Tregub.
Yes.
G. Powell: Board Member Williams.
Yes.
G. Powell: Board Member Donaldson.
Abstain.
G. Powell: Board Member Allen.
Yes.
G. Powell: Board Member Pinkston.
Yes.
G. Powell: Board Member Selawsky.
Yes.
G. Powell: Vase chair Pinto.
Yes.
G. Powell: Chair Cohen.
Yes.
M. Alvarez-Cohen: Motion passes. Let's move on to so did you see extended comments.
S. Hahn: I just wanted to maybe sort of beating a dead horse here, but when this project was previewed my recollection is that everyone or virtually everyone made a comment that we wanted to see inspired architecture. There were variations on that comment. But the feeling was that this building is smack in the middle of the historic area, it's going to be the tallest building we have had some I don't know how many years, it's going to be seen from many places, it's potentially going to block views of other things, and I really, I think this building could work somewhere else. I don't want to say that I don't think it's a good building. I used to live in Manhattan, at the south street sea port. There's a place for this building. I am concerned that tweaks will not get us where we need to be. And that I would love to see, you don't have to redo the entire programming and the number of units per floor, whatever, I would really like to see some alternatives that are proposed by other architects who maybe have more of a deep background in historic, working in a historic context and who might be able to provide some inspired design that fits in here. Also, specifically, I do think it's possible to retain the building at the rear. I guess it's, what, Harold and Kittredge. And adding some fenestration. There are windows, I think they're painted over. There are some features, I think, that could be worked with. It's not a forgone conclusion that that needs to be taken down. I think it could be worked with. That would very much change what that corner experience was like. So, really, that's my main concern here. I'm not sure that Design Review has enough authority to change this building or not, to make it inspired and integrated. That is what I would like to see explored. Inspired and integrated.
M. Alvarez-Cohen: Okay. Any additional comments? George?
G. Williams: I think Board Member Hahn's suggestion has merit. Maybe it doesn't require a change of architect, maybe it does. But maintaining the historic massing models, doesn't give us an alternative to the proposal what it would be. I hope the project sponsor will take that into consideration and respond appropriately.
M. Alvarez-Cohen: All right. Additional comments? No? Okay, I think then we are done with this project tonight. So thank you for attending. The Board has additional business to do. We have to approve the action minutes from wait, wait. Then I have to make a statement. Staff, in my haste, I misspoke, for the consent calendar. Item 2, 3012 College Avenue, is continued off calendar. I said it was a use permit was approved and appealable. Now on the October 30 minutes, Igor made the motion, is there a second?
S. Donaldson: Second.
M. Alvarez-Cohen: All in favor of the action minutes from October 30, say aye?
Aye.
M. Alvarez-Cohen: Anyone against? Anyone abstaining?
J. Selawsky: I'll abstain I wasn't there.
M. Alvarez-Cohen: I'll abstain, I wasn't there as well. Then we have to talk about the calendar. So staff, you want to lead us on that?
G. Powell: We would like you to adopt the calendar in your packet. If you have comments on the chosen day in August when to do the recess we can make that change tonight. If you have other suggestions about how to do the calendar for 2015, we can talk about it now.
R. Allen: I move approval.
I. Tregub: Second.
M. Alvarez-Cohen: All right. All in favor?
Aye.
M. Alvarez-Cohen: All against? Any abstentions? I'll abstain because I don't think I will be attending those meetings. Thank you, Bob, I think I'm termed out. I've been notified that I was termed out. Prakash says I should say something.
R. Allen: Let me just say that my recollection of the reason you were elected in November or December when our normal is February, was because our chair at that point left and you were interim Carol, I don't think we should get off of the normal February election cycle. He was a fill-in chair for a gap a couple of months between. And I think it would not make any sense to all of a sudden be having the chair elected in December and the vice chair in February.
If I could, I think --
M. Alvarez-Cohen: Hold on. Can members of the public please leave, we're trying to conduct business here. Thank you.
It's not his term as chair, it's his term on the ZAB has expired.
M. Alvarez-Cohen: There's an eight-year limit I was notified.
R. Allen: I have a remedy for that, too.
M. Alvarez-Cohen: Maybe the writing is on the wall.
We may see him.

M. Alvarez-Cohen: Give me a few minutes. We're on the clock here, right? In my tenure on the ZAB, I think the Board has never been in better hands. From the incoming chair to our newest board members, including the one that's absent tonight. So I think that a lot of the board members will probably eventually become chair. Maybe with that in mind, I can share some advice. I think the overall objective of the ZAB, including the Board and staff, is to make good decisions. I think the objective of the chair is to increase the public trust in government. And the formula that I used for that is to make the meetings highly functional, fair and friendly. And I think if you can achieve those three, then you help increase the public's trust in our governance. And maybe can I leave you with one tip for each one of those, one best practice, and on the first one, making the meetings highly functional, starts with role modelling. I think the chair and vice chair and the senior board members should really show their focus and be concise. That will help, I think, setting an example for no pontification which I think can be disfunctional. To the Board and the public. It's not respectful of the time especially in these long staff meetings. In order to be fair, I think that the chair needs to be really predictable and consistent way in running the meetings. Predictability and consistency. Finally, to make the meetings friendly. Here's my one tip. And I think I played a big role in making this happen, refer to your board members by their first name not Commissioner Allen, or Commissioner Hahn. I think one of the things I learned in silicon valley, everyone from the executives on down is first name basis. That makes the Board friendly. Oh, I have another minute left, but in the spirit of being concise, I think I will end on that note. And, again, what a great board. Thank you. [ APPLAUSE ]
you are dismissed adjourned.
MEETING: Zoning Adjustments Board (ZAB)

DATE: November 13, 2014

RESPONSE:

Public Comments:

Response ZAB.1

The commenter states disagreement with the Landmarks Preservation Commission’s recommendation that the proposed project’s impact on views from the Campanile Way is significant. The commenter suggests that because the Director of Campus Planning at UC Berkeley does not express concern over the view impact that it should not be considered a significant impact. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

The commenter opines that the proposed project is consistent with the “will of the voters.” The commenter states an opinion that the Hink’s “box” (the 1926 addition) was not built to be “friendly to the street,” and the proposed project would improve the Downtown in that regard. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.2

The commenter states an opinion that the existing building is “dismal” and that the proposed project is “gorgeous.” The commenter further opines that the Zoning Adjustments Board should consider the 74% of voters who opposed Measure R and the fact that UC Berkeley does not consider the impact to the view from Campanile Way as significant. These comments on the merits of the project do not challenge or conflict with the analysis or conclusions of the Draft EIR, but these comments are noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.3

The commenter states an opinion that the proposed project would have a detrimental impact on the Downtown area and that the Draft EIR fails to acknowledge the proposed project’s incompatibility with surrounding historical context. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response ZAB.4

The commenter requests that the EIR include a project alternative that fits in to Berkeley’s “distinct character and community life.” Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment.
Response ZAB.5

The commenter provides historical background about Campanile Way and states an opinion that the proposed project would “cut off” and “obliterate” the view from Campanile Way. It should be noted that only a portion of the view would be obstructed and only from some viewpoints on Campanile Way, as discussed in the Infill Environmental Checklist (Appendix A to the Draft EIR) under Item I, Aesthetics, and in Section 4.1, Cultural Resources, of the Draft EIR. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response ZAB.6

The commenter requests that the ZAB consider an alternative project for the site and that a different site would be more appropriate for the proposed project. Alternatives, including alternative sites, are discussed in Section 5.0, Alternatives, of the Draft EIR. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.7

The commenter states an opinion that the proposed project is not a good fit for the Downtown area. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.8

The commenter states opposition to the design the proposed project because it is “overwhelming” for the project site, and that the project is not “green” in every sense. The commenter also asks that the ZAB consider the theaters and how the entrance will be replaced by commercial on the main street. It should be noted that the proposed project would not change the commercial uses along Shattuck Avenue, and that the proposed new theaters would be accessed below the marquee in the existing theater access location on Shattuck Avenue. Otherwise, the comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration. In addition, please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.

Response ZAB.9

The commenter opines that the Draft EIR is inadequate because the proposed project is “out of scale” and would have a devastating impact on “the most historic block” in Berkeley’s Downtown. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.
Response ZAB.10

The commenter also opines that the project alternatives do not include a smaller scale project and reiterates that surrounding buildings are historic landmarks. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment.

Response ZAB.11

The commenter states an opinion that the Shattuck Cinema is important to many people and that Berkeley has already lost seven theaters in the recent past. The commenter also states that the proposed project’s replacement theaters would not be sufficient because their operation would be delayed by construction. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.12

The commenter states that the Shattuck Cinemas are the only theaters in Berkeley accessible to people with disabilities. New theaters as proposed would be required to meet all requirements of the Americans with Disabilities Act (ADA) regarding wheelchair accessibility. This comment does not challenge the analysis or conclusions in the Draft EIR. However, the comment will be forwarded to the City’s decision makers for their consideration during their review of the project.

Response ZAB.13

The commenter expresses concern that Habitot Children’s Museum would be forced to move by the proposed project. See Response 18.5 for a response to this comment.

Response ZAB.14

The commenter expresses concern about the demolition of Shattuck Cinemas. The commenter also states an opinion that it is unlikely the proposed project’s replacement theaters will be built, citing the loss of the Fine Arts Theater, and requests that the theater be structurally reinforced and left as it. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.15

The commenter states an opinion that the project site is “the most important historic landmark in Downtown.” The commenter opines that the Draft EIR “ignores” the Secretary of Interior’s standards and the Downtown Area Plan, as the proposed project is “grossly out of scale.” Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. The commenter also inaccurately refers to the proposed project as an “addition” to the Shattuck Hotel. The new building would be adjacent to, rather than an addition to, the hotel.
Response ZAB.16

The commenter opines that the Draft EIR fails to consider a “considerably” smaller scale project alternative. The commenter states an opinion that the Draft EIR misreads CEQA guidelines concerning infill EIRs and project alternatives, citing a Draft EIR for a project on Telegraph Avenue that considered a smaller scale alternative. Please see Response 4.6 and Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment. Please see Section 1.0, Introduction, for a discussion of the applicability of the Infill EIR provisions and other provisions of CEQA.

Response ZAB.17

The commenter states an opinion that the EIR process was unclear about the location of the proposed project. The location of the proposed project is detailed in Section 2.0, Project Description, of the Draft EIR. This comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.18

The commenter states opposition to the proposed project’s removal of the Shattuck Cinemas. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.19

The commenter states an opinion that the gap between the demolition of the theater and the construction of replacement theaters in the proposed project would be a “big loss to this community.” Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.20

The commenter asks if the project applicant would be legally bound to build the replacement theaters described in the proposed project. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.21

The commenter states an opinion that it is unfortunate that the project site has been selected for the “too tall” proposed project and that the applicant is not entitled to build the project at the project site. The commenter opines that the ZAB has the authority to deny the proposed project and that it would be right to do so based on the Downtown Area Plan. Please see Response 4.1, above, and Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment.
Response ZAB.22

The commenter opines that the people of Berkeley do not want the Shattuck Cinemas to be demolished and that the Draft EIR ignores the cultural impact of losing the theater. The commenter states that they have collected nearly 1,000 signatures of people from all over the Bay Area opposing the demolition of the theater. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.23

The commenter states that over 95% of people who signed the petition opposing the project did not know about the proposed project and suggests that this reflects poorly on the public input process. Please see Response 29.1 and Response 47.5 for a response to this comment. The commenter states that important area filmmakers also oppose the proposed project. The commenter requests that the ZAB stop the demolition of the Shattuck Cinemas and not approve the Draft EIR. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.24

The commenter states an opinion that the community opposes the demolition of the Shattuck Cinemas. The commenter asks “why is infinite growth on a finite planet such a good thing?” The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.25

The commenter opines that the proposed project will lead to more vehicle congestion in the Downtown area. Please see Response 6.2 for a response to this comment.

Response ZAB.26

The commenter states an opinion that the proposed project would double the Landmark’s leasing costs and that this would impact Landmark renting the space or the cost of tickets. This comment is noted. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.27

The commenter opines that the public has not been adequately notified about the proposed demolition of the Shattuck Cinemas and requests that the public comment period be extended. Please see Response 29.1 and Response 47.5 for a response to this comment. The commenter states an opinion that the theater is a historic resource. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
Response ZAB.28

The commenter states an opinion that the proposed project would have a negative impact on local businesses. This comment pertains to the potential economic effects of the project, which is not within the range of impacts studied pursuant to CEQA. Nonetheless, this comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.29

The commenter states an opinion that the Shattuck Cinemas has a “historic feeling,” and refers in particular to its ceilings. The commenter suggests that the proposed replacement theater would not “have lasting quality.” Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.30

The commenter states an opinion that the location of the Shattuck Cinemas’ marquee is important and asks who will see the theater, if the theater entrance is moved to a side street by the proposed project. It should be noted that the proposed new theaters would be accessed below the marquee in the existing theater access location on Shattuck Avenue. Otherwise, the comment does not provide specific evidence that conflicts with, questions or challenges the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.31

The commenter opines that the Downtown area of Berkeley is the appropriate place for housing according to EPA smart growth principles. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.32

The commenter urges the ZAB to follow the UC Berkeley recommendation that suggests the impact on views from Campanile Way is not significant. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.33

The commenter states an opinion that the scale of the proposed project was approved by voters as part of the DAP. The commenter opines that the majority of Berkeley residents agree with large scale development like the proposed project in the Downtown area. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
Response ZAB.34

The commenter states an opinion that jeopardizing the proposed project would undermine the utility of Berkeley’s climate action plan. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.35

The commenter states that Habitot will be impacted by the proposed project and that Habitot was not included in the EIR process. The commenter also states that Habitot was not included in the community benefits package that was submitted by the project applicant and that the loss of Habitot would be a loss of existing community benefits. The Berkeley Municipal Code 23E.68.090 Findings states:

E. In order to approve a Use Permit for buildings over 75 feet in height under Section 23E.68.070.B, the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities. The applicable public benefit requirements of this Chapter shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.

The proposed project would be required to provide “significant community benefits,” which would be included as conditions of approval for the proposed project. It is not within the purview of the Draft EIR to determine which community benefits would be provided by the proposed project, but rather the role of decision makers. The loss of Habitot is a socioeconomic, rather than an environmental issue; therefore no changes to the EIR are warranted. Nonetheless, the comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.36

The commenter states an opinion that because the proposed project is requesting height allowances, it should be required to provide the city with “over and above givebacks.” Please see Response ZAB.35 above for a response to this comment.

Response ZAB.37

The commenter requests that the proposed project assist Habitot with its relocation costs, as Habitot is an important community fixture. Please see Response ZAB.35 above for a response to this comment.
Response ZAB.38

The commenter requests that Habitot be included in the proposed project’s community benefits package. Please see Response ZAB.35 above for a response to this comment.

Response ZAB.39

The commenter states an opinion that the Draft EIR determination that the impact to westward views from Campanile Way is not historic is without “any basis,” “expert opinion,” or “relevant documentation.” The commenter does not provide specifics on what information or basis is missing from the Draft EIR. The history of Campanile Way and an assessment of the project’s impact and its significance are included in Section 4.1, Cultural Resources, of the Draft EIR, as well as the HRTR (Appendix B to the Draft EIR) and in Topical Response B, Westward View from Campanile Way, above.

Response ZAB.40

The commenter provides historical background on Campanile Way and states that the proposed project’s potential impact to the view from Campanile Way would be a “huge detriment” to the character and cultural history of Berkeley. The commenter suggests that the building massing should be altered to preserve the view. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response ZAB.41

The commenter states that the Draft EIR should acknowledge the impact to westward views from the Campanile Way as a historic view impact. The commenter also asks ZAB to state that the view from Campanile Way is a significant view, the view impact should be changed in the EIR analysis to significant but mitigable, and the EIR should include appropriate mitigation. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment. Please also note that each of the alternatives studied in Section 5.0, Alternatives, of the Draft EIR includes fewer stories and massing on the northern portion of the site to further reduce the impact to the view from Campanile Way, as shown on figures 1 through 6 in Section 3.1, Topical Responses, above.

Response ZAB.42

The commenter opines that the Draft EIR uses “tortured rationale” to determine that the view from Campanile Way is not a historic resource, but does not provide analysis or information that conflicts with the referenced Draft EIR analysis. Please see Response ZAB.39 and Topical Response B, Westward View from Campanile Way, for a response to this comment.

Zoning Adjustments Board Member Comments:

Response ZAB.43

The commenter states that they are pleased that the proposed project would include two and three bedroom apartments because they feel all development projects should include family
housing. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.44

The commenter states an opinion that they would like to see an alternative in the Final EIR that includes less height and density and is more “in scale” with the surrounding area. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment.

Response ZAB.45

The commenter expresses concern that the proposed project’s public open space may be taken over by adjacent restaurants and asks that a restriction on this be a condition of approval for the proposed project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.46

The commenter states an opinion that they believe Habitot is a community asset and notes that it is not in the Draft EIR. Habitot is noted as an existing use on the site in Section 2.0, Project Description, of the Draft EIR. Impacts from the relocation of Habitot are not described in the Draft EIR because the relocation of Habitot is a socioeconomic, rather than an environmental issue; therefore no changes to the EIR are warranted. Nonetheless, the comment is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.47

The commenter states an opinion that the proposed project’s transportation demand management features are not aggressive enough and should include subsidized or free Clipper Cards (rather than AC Transit passes) and provision of cars for the car-share parking spaces. Although this comment does not conflict with or challenge the analysis or conclusions of the Draft EIR, it is noted and will be forwarded to the City’s decision makers. Please see also Response ZAB.35.

Response ZAB.48

The commenter opines that it is not clear where the lobby or marquee would be for the proposed replacement theater. As described in Section 2.0, Project Description, of the Draft EIR, the lobby and marquee would remain where they currently are, on Shattuck Avenue. The commenter expresses concern that Landmark may not lease the replacement theater and wonders if the space could be used for some other community serving activity, such as a live performance venue. The commenter states an opinion that the Draft EIR needs to discuss this because it is a community benefit. Please see Response ZAB.35 and Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.
Response ZAB.49

The commenter states an opinion that long-distance view changes are not necessarily significant under CEQA. The comment is noted. Please see Topical Response B, Westward View from Campanile Way, for information on the Draft EIR’s analysis and conclusions regarding the distance view from Campanile Way.

Response ZAB.50

The commenter states an opinion that salvaged historic materials should be reused on site to the extent feasible. Please see Response 47.4 for a response to this comment.

Response ZAB.51

The commenter states an opinion that community benefits need to go beyond “business as usual” and opines that the proposed project’s community benefits do not achieve this. The commenter also states an opinion that community benefits should be visible around the project site and suggests extending the pedestrian friendly community benefits of the proposed project to the BART station. In addition, the commenter expresses concern with the idea of a community benefit that pays “tenants to relocate whose leases have expired,” such as in the case of Habitot. The commenter states they would support a community benefit “where a fee could be charged and redirected to a valued community resource like Habitot.” See Response ZAB.35 for a response to this comment.

Response ZAB.52

The commenter states an opinion that the intent and jurisdiction of the community benefits component of the Downtown Area Plan needs to be discussed by decision makers. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.53

The commenter states confusion concerning the location of the entrance to the proposed project’s replacement theaters. As described in Section 2.0, Project Description, of the Draft EIR, the lobby and marquee would remain where they currently are, on Shattuck Avenue.

Response ZAB.54

The commenter requests that the agreement between the project applicant and Landmark Theaters concerning the proposed replacement theaters be clear, affordable and should work for Landmark’s business model. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.
Response ZAB.55

The commenter states an opinion that they like the mix of family housing in the proposed project. The commenter restates an earlier opinion that Clipper Cards would be better than AC Transit passes, if considered as a community benefit. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. See also Response ZAB.35.

Response ZAB.56

The commenter states disagreement with Mitigation Measure CR-2(d) and provides background from the Design Guidelines to support the comment. Please see Response 52.31.

Response ZAB.57

The commenter states an opinion that transit passes should not be considered “extraordinary community benefits” and that the proposed project should be “more creative” and “push the envelope” with community benefits. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. Please see also Response ZAB.35.

Response ZAB.58

The commenter states an opinion that it is important that the proposed project include affordable housing. Please see Response 8.5 for a response to this comment.

Response ZAB.59

The commenter states an opinion that it is not clear that the alternatives compliment their surroundings. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, for a response to this comment. In addition, it should be noted that the alternative designs are conceptual in nature, and not fully designed project plans or renderings, and this is typical of CEQA alternatives analysis. If one of the alternatives were selected for approval, more detailed plans consistent with the general concept of the alternative would be developed, most likely by the project applicant, for further review by the decision makers.

Response ZAB.60

The commenter states an opinion that Habitot’s relocation costs would be reasonable to include in the project’s required community benefits. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. Please see also Response ZAB.35.

Response ZAB.61

The commenter requests better discussion of the project alternatives in the Final EIR, particularly with what the project alternatives would look like. The commenter requests to know what the trade-offs are between the proposed project and the alternatives. The tradeoffs...
are discussed in Section 5.0, Alternatives, of the Draft EIR in the discussion of the alternatives’ environmental impacts, which are presented in the context of comparison with those of the proposed project. Please see also Topical Response C, Adequacy of the Draft EIR Alternatives, and Response ZAB.59.

Response ZAB.62

The commenter requests that the Draft EIR analysis show that the view corridor has a width and not only a central access point. This concept is discussed on pages 4.1-33 and 4.1-34 of the Draft EIR; shown in figures 4.1-3 through 4.1-7; and discussed further under Topical Response B, Westward View from Campanile Way above.

The commenter also states support for the Design Review comments; comments from the Design Review Committee hearing, which preceded the ZAB hearing, are presented and responded to above in this document.

Response ZAB.63

The commenter states an opinion that representatives of UC Berkeley do not speak for the view from Campanile Way and whether or not it would be impacted by the proposed project. The commenter also opines that the view is a cultural resource that needs to be addressed fully in the EIR. The history of Campanile Way and an assessment of the project’s impact and its significance are included in Section 4.1, Cultural Resources, of the Draft EIR, as well as the HRTR (Appendix B to the Draft EIR) and in Topical Response B, Westward View from Campanile Way, above. The commenter does not specify how these discussions do not fully address the view and the project’s impact upon it. The commenter requests that an alternative that mitigates or eliminates the impact to the view be included in the EIR. Please see Topical Response B, Westward View from Campanile Way, for a response to these comments.

Response ZAB.64

The commenter states an opinion that the trees that currently block part of the view from Campanile Way are not permanent features and that the Draft EIR should consider this. Please see Topical Response B, Westward View from Campanile Way, for a response to this comment.

Response ZAB.65

The commenter requests that “all facets” related to the Shattuck Cinemas be “explored.” The commenter states that the programming of the Shattuck Cinemas is unique and adds to Berkeley’s culture. Please see Topical Response D, Demolition of the Shattuck Cinemas, for a response to this comment.

Response ZAB.66

The commenter states that the Downtown Area Plan includes a list of suggested community benefits, such as childcare, which they believe could be applied to assist Habitot. The comment does not provide specific evidence that conflicts with, questions or challenges the analysis and
conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration. Please see also Response ZAB.35.

Response ZAB.67

The commenter requests a “historic alternative” that includes details beyond simply conceptual massing. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, and Response ZAB.59 for a response to this comment.

Response ZAB.68

The commenter states an opinion that the view from Shattuck Avenue looking north at the project site would be significantly impacted. Please see Topical Response A, Project Visual and Historic Compatibility Impacts, for a response to this comment. However, the ZAB may consider this issue as part of its determination as to whether the project is “detrimental” under the Zoning Ordinance.

Response ZAB.69

The commenter requests that a better analysis be done with “more analysis and rigor” concerning the proposed project’s impact to the view from Campanile Way. The history of Campanile Way and an assessment of the project’s impact and its significance are included in Section 4.1, Cultural Resources, of the Draft EIR, as well as the HRTR (Appendix B to the Draft EIR) and in Topical Response B, Westward View from Campanile Way, above. The commenter does not specify what additional analysis is required or how the information in the Draft EIR lacks “rigor;” therefore, a specific response is not possible. Please see also Topical Response B, Westward View from Campanile Way, for additional information.

Response ZAB.70

The commenter states that a building on the project site would be a prominent building and questions the proposed design of the project. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.71

The commenter states an opinion that Habitot would be a significant loss as it is an important piece of Berkeley’s “social fabric.” The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.72

The commenter requests that the project applicant makes certain that their project would make the Downtown a place where people want to come, and not defeat the purpose of locating there. The comment does not conflict with, question or challenge the analysis and conclusions of the
Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.73

The commenter expresses concern about the demolition of the Shattuck Cinemas and suggests that the theater operator is unlikely to return after relocating during construction. The commenter states an opinion that they would like to see something worked out with the theater. The comment does not conflict with, question or challenge the analysis and conclusions of the Draft EIR, but is noted and will be forwarded to the City’s decision makers for their consideration. In addition, please see Topical Response D, Demolition of the Shattuck Cinemas, for further information.

Response ZAB.74

The commenter expresses concern with the proposed architectural details of the proposed project, particularly above the base of the building and provides suggestions for design changes. These comments on the merits and design details do not pertain directly to the Draft EIR, but will be forwarded to the City’s decision makers for their consideration.

Response ZAB.75

The commenter expresses concern with the proposed architectural details of the proposed project, particularly regarding the rhythm and spacing of ground floor retail. Mitigation Measure CR-2(c), which requires the following, among other changes, would partially address this concern: “The proportion and pattern of void to wall in the wall treatments of the proposed project shall be modified to more closely match that exhibited in the Shattuck Hotel, the Public Library, the former Elks Lodge and the former Armstrong College building. Potential ways to achieve this include replacing the window wall systems with punched curtain wall systems similar to those used elsewhere in the project, or breaking up the window wall systems with windowless bays.”

Response ZAB.76

The commenter made a motion to extend the public review period to December 1st, 2014 in response to requests from the public. The motion passed and subsequently the City extended the comment period as requested.

Response ZAB.77

The commenter states an opinion that the proposed project is not appropriate for the site. The commenter requests an alternative that has a more historic and contextual design. Alternatives, including a historic preservation and a contextual design alternative, as well as a discussion of alternative sites, may be found in Section 5.0, Alternatives, of the Draft EIR. Please see also Response ZAB.59 and Topical Response C, Adequacy of the Draft EIR Alternatives.
Response ZAB.78

The commenter appears to support components of the Preservation Alternative as discussed in Section 5.0, Alternatives, of the Draft EIR. The comment does not question or challenge the analysis and conclusions of the Draft EIR, but it is noted and will be forwarded to the City’s decision makers for their consideration.

Response ZAB.79

The commenter opines that the historic alternative massing models do not give decision makers a good enough idea of what the proposed alternative would be. Please see Topical Response C, Adequacy of the Draft EIR Alternatives, and Response ZAB.59 for a response to this comment.
4.0 DRAFT EIR TEXT REVISIONS

Chapter 4.0 presents specific changes to the text of the Draft EIR that are being made to correct errors or omissions or clarify information presented in the Draft EIR in response to comments received during the public review period. In no case do these revisions result in a greater number of impacts or impacts of a substantially greater severity than those set forth in the Draft EIR. Where revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with underlined text. Text deleted from the Draft EIR is shown in strikeout. Page numbers correspond to the page numbers of the Draft EIR.

4.1 DRAFT EIR TEXT REVISIONS

The Table of Contents of the Draft EIR has been augmented as follows:

Appendices

Appendix A Notice of Preparation, Responses to Notice of Preparation, Draft Infill Environmental Checklist
-Appendix A Viewshed Location Screening Analysis Worksheet
-Appendix B Air Quality and Greenhouse Gas Emissions Modeling Data
-Appendix C Geotechnical Feasibility Report
-Appendix D Phase I Environmental Site Assessment
-Appendix E Storm Water Discharge Calculations
-Appendix F Wind and Comfort Impact Analysis
-Appendix G Vibration Assessment and Noise Modeling Data
-Appendix H CEQA Guidelines Section 15183.3, Streamlining for Infill Projects

Appendix B Historic Resources Technical Report
-Appendix A Historic Photographs and Maps of the Project Site
-Appendix B1 Existing Conditions Photographs of the Project Site
-Appendix B2 Existing Conditions Photographs of Shattuck Avenue Commercial Corridor
-Appendix C Spreadsheet of Parcels within the Project Vicinity
-Appendix D DPR 523A and 523B forms for the Shattuck Hotel
-Appendix E The Secretary of the Interior’s Standards for Rehabilitation
-Appendix F Visual Simulations of Views from Campanile Way, Environmental Vision
-Appendix G Mitigations Identified by Tuan and Robinson Structural Engineers

Appendix C Traffic and Parking Study
-Appendix A Traffic Counts
-Appendix B Synchro Reports
-Appendix C PEQI Audit Forms
-Appendix D BEQI Street Surveys
-Appendix E Urbemis Summary Report
-Appendix F Synchro Reports – Mitigation Measures

Page ES-1 of the Draft EIR is revised to include the following corrections:

The project site itself – the primary area of proposed new development – is a 38,40034,800 square-foot (0.88-acre), generally “L” shaped portion of the larger
property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza building.

Page ES-1 of the Draft EIR is revised to include the following corrections:

Both buildings are two stories in height with a partial third story and a basement level (although the theater rooms occupy the equivalent of two stories of vertical space in what is essentially one level of usable space). The 1926 addition has a small partial third story on its north side that is not visible from street level.

Page ES-1 of the Draft EIR is revised to include the following corrections:

Directly adjacent to the project site and on the same block is the Shattuck Hotel, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue. The entire block was designated a City of Berkeley Historic Landmark by the Landmarks Preservation Commission in 1987, with the notation that “In style and structure the 1957 wing is virtually a separate building, … and is not contributory to the early 20th century character of the Shattuck Hotel.”

Page ES-2 of the Draft EIR is revised to include the following correction:

Building step backs would occur primarily just above the fifth and 12th floors.

Page ES-3 of the Draft EIR is revised to include the following correction:

4. Use Permit to exceed a building height of 7560 feet

Page ES-4 of the Draft EIR is revised to include the following correction:

It would involve retaining the historic structures on site, which would avoid the project’s significant and unavoidable impact related to demolition of historic resources.

Page ES-5 is revised to include the following changes:

CR-1(b) Salvage. The project applicant shall give local historical societies the opportunity to 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.

Sections 1.2 though 1.5 of the Final EIR (which appeared on pages 1-3 through 1-8 of the Draft EIR) are revised as follows:

1.2 PURPOSE AND LEGAL AUTHORITY

The project requires the discretionary approval of the City of Berkeley’s Zoning Adjustments Board and Landmarks Preservation Commission. Therefore, it is subject to the requirements of the California Environmental Quality Act (CEQA). In accordance with Section 15121 of the State of California Environmental Quality Act (CEQA) Guidelines, the purpose of this EIR is to serve as an informational document that:

...will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

This EIR has been prepared as a Project EIR (although limited in scope pursuant to CEQA, as discussed further below) pursuant to Section 15161 and as an Infill EIR pursuant to Section 15183.3 of the CEQA Guidelines. A Project EIR is appropriate for a specific development project. As stated in the CEQA Guidelines in Section 15161:

This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project, including planning, construction, and operation.

This limited scope EIR includes the Infill Checklist; the analysis of the environmental impacts; and mitigation measures and project alternatives addressing the impacts. The nature of an Infill EIR is discussed below.

This EIR is to serve as an informational document for the public and City of Berkeley decision-makers. The process will culminate with Zoning Adjustments Board and Landmarks Preservation Commission hearings to consider certification of a Final EIR and approval of the project.

1.3 SCOPE AND CONTENT

In The 2014 CEQA Guidelines introduced Section 15183.3, Infill Streamlining was amended to implement updates, which were developed pursuant to SB 226 (Simitian, 2011). These purpose of Section 15183.3 is to streamline the environmental review process for eligible infill projects that promote a specific set of environmental policy objectives by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a
planning level decision or by uniformly applicable development policies. Section 15183.3 provides flexibility in project design by basing eligibility on environmental performance rather than prescribing specific project characteristics. Section 15183.3 The Streamlining updates contains performance standards that can be used to determine an infill project’s eligibility for streamlined review. Pursuant to 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, Section 21099 of CEQA (California Public Resources Code 21000–21177) 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 this 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 performance standards contained in Appendix M of the CEQA Guidelines. Examples of performance standards include remediation onsite, protection of public health, and proximity to an existing major transit stop/transit corridor. The information demonstrating that the infill 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.

For eligible infill projects, CEQA does not apply to the effects of the project in the following ways, pursuant to CEQA Guidelines Section 15183.3(c):

- 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.

If the infill project would result in new project-specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects are subject to CEQA pursuant to Guidelines Section 15183.3(d)(2)(C). With respect to those effects that are subject to CEQA, the lead agency must prepare an infill EIR if the written checklist shows that the effects of the infill project would be potentially significant. An Infill EIR must analyze only those significant effects that uniformly applicable development policies or standards do not substantially mitigate, and that are either new specific effects or are more significant than the prior EIR analyzed. An infill EIR need not analyze growth inducing impacts.

This EIR addresses the issues determined to be potentially significant by the City of Berkeley in the context of the streamlining provisions discussed above. To identify potentially significant environmental issues, the City conducted a review of the project through an Infill Environmental Checklist (Appendix A to this EIR), pursuant to CEQA Guidelines Section 15183.3. The Infill Environmental Checklist determined that the proposed project would have potentially significant impacts related to cultural resources and transportation/traffic. Therefore, this Infill EIR addresses these two potentially significant impacts. The cultural resources section of the EIR includes a discussion of view impacts related to historic resources on the UC Berkeley campus; all other view impacts are discussed in the Aesthetics section of the Infill Environmental Checklist. For the reasons documented in the Infill Environmental Checklist, impacts in all other environmental areas would either be less than significant; were analyzed in the DAP EIR; or would be substantially mitigated by uniformly applicable development policies.

For the issue areas of cultural resources and transportation/traffic, the EIR identifies the potentially significant environmental impacts, including site-specific and cumulative effects of the project. In addition, the EIR recommends feasible mitigation measures, where possible, that would eliminate or reduce adverse environmental effects.

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 this CEQA analysis. A full reference list is contained in Section 6.0, References and Report Preparers. The Alternatives section of the EIR (Section 5.0) was prepared in accordance with Section 15126.6 of the CEQA Guidelines. The alternatives discussion evaluates the CEQA-required “no project” alternative and two alternative development scenarios for the site. It also identifies the environmentally superior alternative among the alternatives assessed. It should be noted that, pursuant to CEQA Guidelines Section
15183.3(e), the analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities. Except as provided in CEQA Guidelines Section 15183.3(e), an Infill EIR must contain all elements described in Article 9, Contents of Environmental Impact Reports.

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable legal precedent. The CEQA Guidelines provide the standard of adequacy on which this document is based. The Guidelines state:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure. (Section 15151)

While the CEQA review in this EIR has been streamlined to some extent pursuant to CEQA Guidelines Section 15183.3, project-specific analysis was required for transportation/traffic and cultural resources to meet the intent of Section 15183 and to provide the public and decision-makers with up to date and accurate environmental review for the project.

1.4 LEAD, RESPONSIBLE, AND TRUSTEE AGENCIES

The CEQA Guidelines define lead, responsible, and trustee agencies. The City of Berkeley is the lead agency for the project because it holds principal responsibility for approving the project.

A responsible agency refers to a public agency other than the lead agency that has discretionary approval over the project, and a trustee agency refers to a state agency having jurisdiction by law over natural resources affected by a project. There are no responsible or trustee agencies for the project.

1.5 ENVIRONMENTAL REVIEW PROCESS

The major steps in the environmental review process for an Infill EIR, as required under CEQA, are outlined below. The steps are presented in sequential order.

1. Determination of Eligibility for Infill EIR Process and Scope. The lead agency may review the proposed project under the applicable sections of the CEQA Guidelines and Statute to determine eligibility for an Infill EIR process and scope. This includes an analysis for consistency with the CEQA Guidelines’ Appendix M “Performance Standards for Infill Projects Eligible for Streamlined Review” and whether the proposed project meets the
requirements in CEQA Statute Section 21099 for a “Transit Oriented Infill Project.”

42. **Notice of Preparation (NOP).** After deciding that an EIR is required, the lead agency must send an NOP soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (*CEQA Guidelines* Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk’s office for 30 days. The NOP may be accompanied by an Initial Study or Infill Environmental Checklist that identifies the issue areas for which the proposed project could create significant environmental impacts.

43. **Preparation of Draft Environmental Impact Report (Draft EIR).** The Draft EIR must contain:

   a) table of contents or index;
   b) summary;
   c) project description;
   d) environmental setting;
   e) discussion of significant impacts (direct, indirect, cumulative, and unavoidable impacts);
   f) a discussion of alternatives; and
   g) mitigation measures.

34. **Notice of Completion/Notice of Availability of Draft EIR.** A lead agency must file a Notice of Completion with the State Clearinghouse when it completes a Draft EIR and prepare a Public Notice of Availability of Draft EIR. The lead agency must place the Notice in the County Clerk’s office for 30 days (Public Resources Code Section 21092) and send a copy of the Notice to anyone requesting it (*CEQA Guidelines* Section 15087). Additionally, public notice of Draft EIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public, and respond in writing to all comments received (Public Resources Code Sections 21104 and 21253). The minimum public review period for a Draft EIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless the Clearinghouse (Public Resources Code 21091) approves a shorter period.

45. **Final EIR (FEIR).** A FEIR must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.

56. **Certification of FEIR.** Prior to making a decision on a project, the lead agency must in its independent judgment certify that: a) the FEIR has been completed in compliance with CEQA; b) the FEIR was presented to the
decision-making body of the lead agency; and c) the decision-making body reviewed and considered the information in the FEIR prior to approving a project (CEQA Guidelines Section 15090).

67. **Lead Agency Project Decision.** A lead agency may: a) disapprove a project because of its significant environmental effects; b) require changes to a project to reduce or avoid significant environmental effects; or c) approve a project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (CEQA Guidelines Sections 15042 and 15043).

78. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead or responsible agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency’s jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (CEQA Guidelines Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency’s decision.

89. **Mitigation Monitoring Reporting Program.** When an agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.

910. **Notice of Determination.** An agency must file a Notice of Determination after deciding to approve a project for which an EIR is prepared (CEQA Guidelines Section 15094). A local agency must file the Notice with the County Clerk. The Notice must be posted for 30 days and sent to anyone previously requesting notice. Posting of the Notice starts a 35-day statute of limitations on CEQA legal challenges (Public Resources Code Section 21167[c]).

Page 2-1 of the Draft EIR is revised to include the following corrections:

The project site itself – the primary area of proposed new development – is a 38,400 square-foot (0.88-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza (commonly referred to as the Shattuck Hotel) building beneath its existing retail space and movie theater entrance.
Page 2-5 of the Draft EIR is revised to include the following corrections:

Both buildings are two stories in height with a partial third story and a basement level (although the theater rooms occupy the equivalent of two stories of vertical space in what is essentially one level of usable space). The 1926 addition has a small partial third story on its north side that is not visible from street level.

Page 2-6 of the Draft EIR is revised to include the following information:

As noted above, directly adjacent to the project site and on the same block is the Shattuck Hotel, a City of Berkeley Landmark, whose main lobby and entrance are on Allston Way but which also occupies the airspace above the ground floor retail along the entire block’s frontage on Shattuck Avenue. Below the hotel rooms along Shattuck Avenue is a row of commercial storefronts that are part of the project site, as well as the entrance to the Shattuck Cinemas, a 10-screen movie theater. The hotel currently has 199 guest rooms, a restaurant, a bar and meeting rooms. The entire block was designated a City of Berkeley Historic Landmark by the Landmarks Preservation Commission in 1987, with the notation that “In style and structure the 1957 wing is virtually a separate building, … and is not contributory to the early 20th century character of the Shattuck Hotel.”

The caption of Figure 2-8’s Photo 9 on Page 2-11 of the Draft EIR is revised to include the following correction:

The southwest side of Shattuck Avenue, looking northwest from Shattuck Avenue at Allston Way across from the Shattuck Hotel.

Page 2-13 of the Draft EIR is revised to include the following information for clarity:

The General Plan also states that building intensity will generally range from a Floor Area Ratio (FAR) up to 6:1 of less than 1 to an FAR of 6 and that population density will generally range from 88 to 220 persons per net acre; however, the City’s Downtown Area Plan vision for development in the Core Area, discussed further below, supersedes the General Plan’s specific standards for Downtown development intensity.

Page 2-17 of the Draft EIR is revised to include the following correction:

Building step backs would occur primarily just above the fifth and 12th-13th floors.

Page 2-57 is revised to include the following correction:

5. Secure Downtown as a major cinema destination by replacing the aging deficient theater boxes with state-of-the-art cinemas.

Page 2-58 is revised to include the following correction:

6. Use Permit to exceed a building height of 7560 feet
Page 3-1 of the Draft EIR is revised to include the following information:

The Shattuck Hotel, a City of Berkeley Landmark, is located adjacent and to the northeast of the project site and on the same city block. The entire block was designated a City of Berkeley Historic Landmark by the Landmarks Preservation Commission in 1987, with the notation that “In style and structure the 1957 wing is virtually a separate building, … and is not contributory to the early 20th century character of the Shattuck Hotel.”

Page 4.1-2 of the Draft EIR is revised to include the following correction:

In 1968, the Shattuck Hotel Management Company purchased the hotel and operated it until 1980. Firmateer, Inc. remodeled the hotel in the early 1980s and it became a tourist hotel once again.

Page 4.1-2 of the Draft EIR is revised to include the following correction:

The following year, Whitecotton commissioned architect James Placheek to build an office building at 2060-2074 Allston Way behind the hotel;

Page 4.1-3 of the Draft EIR is revised to include the following correction:

Expansion finally occurred in 1959, and included demolition of Whitecotton’s 1921 office building designed by James Placheek at the corner of Allston Way and Harold Way.

Page 4.1-3 of the Draft EIR is revised to include the following correction:

Built in several stages, the first iteration of the Shattuck Hotel was completed in December 1910 at the northeast-southwest corner of Shattuck Avenue and Allston Way;

Page 4.1-7 of the Draft EIR is revised to include the following correction:

This simple addition was designed for compatibility with both the existing hotel building and with the Armstrong College (now Dharma Institute College) building across Harold Way, which was also designed by Ratcliff and completed in 1923

Page 4.1-7 of the Draft EIR is revised to include the following correction:

The 1926 addition attached to the 1913 hotel addition about halfway between Shattuck Avenue and Harold Way. The exterior location of the addition is evidenced by the shift from double to triple sash industrial windows that occurs at roughly the midpoint of the Kittredge Street elevation, and by a crack in the exterior stucco running the full height of the building in this location.
Pages 4.1-14 and 4.1-15 of the Draft EIR is revised as follows:

The Downtown Berkeley Design Guidelines explicitly allow for supplemental guidelines through other planning documents to provide more specific guidance for geographic subareas, such as the subareas where historic resources are concentrated encompassed by the DAP.

Page 4.1-16 of the Draft EIR is revised to include the following information:

Policy HD-1.1 in the DAP calls on the City to “Preserve historic buildings and sites of Downtown, and provide where appropriate for their adaptive reuse and/or intensification,” and states that “At a minimum, historic facades should be maintained and/or rehabilitated and the scale and character of additions must be compatible with the historic building.”

Pages 4.1-17 and 4.1-18 of the Draft EIR are revised to include the following information:

Frederick Law Olmsted’s 18656 Plan for the College of California (UC Berkeley’s predecessor) did not include an east-west corridor corresponding to today’s Campanile Way. Instead, Olmsted’s picturesque plan was organized around a central east-west axis that was located further north and passed through the campus’ Central Glade. That said, a Center Street axial path, the predecessor to Campanile Way, had been established as a secondary east-west axis by the late 1800s. The eastern terminus of this axis was a central flagpole and formal landscape framed by North Hall, South Hall and Bacon Hall first appears on the 1873 UC Berkeley campus plan prepared by engineer and landscape architect William Hammond Hall. That same year, the campus’s first buildings, North and South Halls, were constructed flanking the eastern end of this axis. Bacon Hall was added at the axis’ eastern end in 1881. Around this same time, a flagpole marking the eastern terminus of the Center Street path was installed west of Bacon Hall. This pole served as the “vertical center point” of the campus.

In the first years of the twentieth century, campus architect John Galen Howard implemented a bold Beaux-Arts plan for the new UC Berkeley campus. This plan reinforced the Central Glade axis, which terminated at the 1902 Hearst Mining Building, and significantly further increased the prominence of the former Central Street axis, which became Campanile Way with completion of the Campanile (Sather Tower) in 1914.

Page 4.1-18 of the Draft EIR is revised to include the following correction:

Other notable developments from the Beaux-Arts Era include the completion of the Golden Gate Bridge in 1937, and extensive construction in downtown Berkeley, a portion of which was visible from Campanile Way (e.g., the Berkeley Community Theater located on the Berkeley High School campus).
Page 4.1-18 of the Draft EIR is revised to include the following clarification:

The original Shattuck Hotel and 1912-1913 additions property also satisfies NRHP/CRHR Criterion C/3 at the local level of significance as a distinctive example of the Mission Revival style in Berkeley’s downtown, and for its association with master architect Benjamin Geer McDougall.

Page 4.1-19 of the Draft EIR is revised to include the following correction:

The addition is modest in design and detail, is profoundly subordinate to the pre-existing Shattuck Hotel buildings, and does not appear to be significant as a notable example of Ratcliff’s work.

Page 4.1-20 of the Draft EIR is revised to include the following corrections:

Because it appears to satisfy NRHP and CRHR significance criteria, Architectural Resources Group has assigned the Shattuck Hotel (built 1910-1926) a California Historical Resource Status Code of 3S2S2, which indicates that the property was found eligible for both the National and California Registers through survey evaluation determined eligible for the National Register by consensus through the Section 106 process.

Page 4.1-21 of the Draft EIR is revised to include the following corrections:

According to the Notice of Decision, the designation boundary parcel where the landmark is located includes the 1926 addition and the 1959 building; however, separate statements in the Landmark application Designation itself appear to exclude the 1959 building from the property’s significance. According to the Landmark nomination application form:

Owners contemplate closing off the interior connection of the [1959] building from the rest of the store and selling it as a separate parcel sometime in the future: they would like it understood that in that case it would not become an independent landmark or remain included within a landmark designation.

Section 11 of the nomination application form states:

Pages 4.1-21 and 4.1-22 of the Draft EIR are revised to include the following corrections:

The one-block radius project vicinity established for archival research is bounded by Center Street on the north, Milvia Street on the eastwest, Bancroft Way on the south, and on the east by a line generally running mid-block between Shattuck Avenue and Oxford Street/Fulton Street. Historical resources outside this boundary are considered to be too far from the project site to conceivably be affected by the proposed project. The project vicinity includes a wide array of designated and potential historic resources, including 14 City of Berkeley landmarks and portions of two landmark districts one historic district.
Page 4.1-22 of the Draft EIR is revised to include the following corrections:

- Civic Center Historic District
- Berkeley High School Historic District

Please see Appendix B1 to the Historic Resources Technical Report (Appendix B to this EIR) for photographs of several of these buildings.

Six of the properties listed above, including the Berkeley Post Office, the Berkeley YMCA, the Masonic Temple, the Berkeley Public Library, the Tupper & Reed Building, and the Morse Block, as well as the two historic districts, are also listed on both the National and California Registers.

Page 4.1-22 of the Draft EIR is revised to include the following information:

The following 10 properties that are not City Landmarks have either been found through previous survey evaluation to appear eligible for individual listing on the National Register, or have, through the Section 106 process, been determined eligible for individual listing on the National Register:

Page 4.1-24 of the Draft EIR is revised to include the following correction:

Using the Secretary of the Interior's “Standards” as a starting point (in compliance with DAP Policy HD-1aHD-1.1’s action “b”), the Design Guidelines for future development in the Downtown Area should be updated to ensure that new construction respects the authentic character, significance and integrity of the existing building stock in areas that may have the potential for designation as historic districts.

Page 4.1-25 of the Draft EIR is revised to include the following correction:

Project compliance with the provisions of the LPO, conformance with the Secretary of the Interiors Standards (consistent with DAP Policy HD-1aHD-1.1’s action “b”), and consistency with updated Design Guidelines intended to protect the character-defining features of those portions of the Downtown Area which may have the potential for designation as historic districts (as called for in Mitigation CUL-2, above) would reduce potential impacts associated with development that might jeopardize existing character defining features in those areas.

Page 4.1-27 of the Draft EIR is revised to include the following additional text:

Impacts from demolition of the Shattuck Hotel 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition to the Hotel are potentially significant.
Page 4.1-28 of the Draft EIR is revised to include the following additional text:

CR-1(b) Salvage. The project applicant shall give local historical societies the opportunity to 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.

Page 4.1-30 of the Draft EIR is revised to include the following additional text:

In ARG’s professional opinion, the aspects of the design described above, including physical separation from historic buildings; setbacks at upper stories; and variations in massing, rooflines and materials, in combination with the project’s location along narrow streets in a dense downtown near identified historic buildings of similar height, prevent the height and scale of the project, in and of themselves from having a significant impact on historical resources.

Page 5-3 of the Draft EIR is revised to include the following correction:

The Preservation Alternative would include a rectangular plaza along the westnorth half of the Harold Way frontage rather than a corner entry plaza as proposed for the project.

Pages 5-17 and 5-22 are revised to replace the phrase “aging deficient” with “the” in reference to the existing theaters.

Page 5-21 of the Draft EIR is revised to include the following additional text:

Unlike the proposed project, the Contextual Design Alternative would require a Use Permit for the portion of development above 120 feet.

Page 5-38 of the Draft EIR is revised to include the following additional text:

It would involve retaining the historic structures on site, 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.
Page 1 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised to include the following correction:

The project site itself – the primary area of proposed new development – is a 38,400 square-foot (0.88-acre), generally “L” shaped portion of the larger property, with frontage on Allston Way, Harold Way and Kittredge Street, and also includes a portion of the basement level of the adjacent Hotel Shattuck Plaza (commonly referred to as the Shattuck Hotel) building beneath its existing retail space and movie theater entrance.

Page 57 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised as follows:

This Report presents the written checklist that cites the specific portions of the DAP EIR, including page and section references, containing the analysis of the Project’s potential significant effects. For this reason, this analysis begins with reference to the Project Description in the DAP EIR to demonstrate that the Project is generally included within the overall plan area buildout described in the Project Description for the DAP EIR. It should also be noted that all applicable mitigation measures from the DAP EIR have either been incorporated into the project or would be included in the Mitigation Monitoring and Reporting Program and, if the project is approved, the Conditions of Approval.

Page 3 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

Built in several stages, the first iteration of the Shattuck Hotel was completed in December 1910 at the northeast-southwest corner of Shattuck Avenue and Allston Way;

Page 5 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

This simple addition was designed for compatibility with both the existing hotel building and with the Armstrong College (now Dharma Institute College) building across Harold Way, which was also designed by Ratcliff and completed in 1923.

Page 8 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

The following year, Whitecotton commissioned architect James Placheek to build an office building at 2060-2074 Allston Way behind the hotel;

Page 9 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

Expansion finally occurred in 1959, and included demolition of Whitecotton’s 1921 office building designed by James Placheek at the corner of Allston Way and Harold Way.
Page 21 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

According to the Notice of Decision, the designation boundary parcel where the landmark is located includes the 1926 addition and the 1959 building; however, separate statements in the Landmark application Designation itself appear to exclude the 1959 building from the property’s significance. According to the Landmark nomination application form:

Owners contemplate closing off the interior connection of the [1959] building from the rest of the store and selling it as a separate parcel sometime in the future: they would like it understood that in that case it would not become an independent landmark or remain included within a landmark designation.

Section 11 of the nomination application form states:

Page 22 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

The original Shattuck Hotel and 1912-1913 additions property also satisfies NRHP/CRHR Criterion C/3 at the local level of significance as a distinctive example of the Mission Revival style in Berkeley’s downtown, and for its association with master architect Benjamin Geer McDougall.

Page 24 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

The addition is modest in design and detail, is profoundly subordinate to the pre-existing Shattuck Hotel buildings, and does not appear to be significant as a notable example of Ratcliff’s work.

Page 24 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

Because it appears to satisfy NRHP and CRHR significance criteria, Architectural Resources Group has assigned the Shattuck Hotel (built 1910-1926) a California Historical Resource Status Code of 3S2S2, which indicates that the property was found eligible for both the National and California Registers through survey evaluation determined eligible for the National Register by consensus through the Section 106 process.

Page 28 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

The one-block radius project vicinity established for archival research is bounded by Center Street on the north, Milvia Street on the east-west, Bancroft Way on the south, and on the east by a line generally running mid-block between Shattuck
Avenue and Oxford Street/Fulton Street. Historical resources outside this boundary are considered to be too far from the project site to conceivably be affected by the proposed project. The project vicinity includes a wide array of designated and potential historic resources, including 14 City of Berkeley landmarks and portions of two landmark districts: one historic district:

Page 28 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

- Civic Center Historic District
- Berkeley High School Historic District

Please see Appendix B1 to the Historic Resources Technical Report (Appendix B to this EIR) for photographs of several of these buildings.

Six of the properties listed above, including the Berkeley Post Office, the Berkeley YMCA, the Masonic Temple, the Berkeley Public Library, the Tupper & Reed Building and the Morse Block, as well as the two historic districts, are also listed on both the National and California Registers.

Page 29 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

The following 10 properties that are not City Landmarks have either been found through previous survey evaluation to be eligible for individual listing on the National Register, or have, through the Section 106 process, been determined eligible for individual listing on the National Register:

Page 32 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

Frederick Law Olmsted’s 1865-6 Plan for the College of California (UC Berkeley’s predecessor) did not include an east-west corridor corresponding to today’s Campanile Way. Instead, Olmsted’s picturesque plan was organized around a central east-west axis that was located further north and passed through the campus’ Central Glade. That said, a Center Street axial path, the predecessor to Campanile Way, had been established as a secondary east-west axis by the late 1800s. The eastern terminus of this axis was a central flagpole and formal landscape framed by North Hall, South Hall and Bacon Hall. That same year, the campus’s first buildings, North and South Halls, were constructed flanking the eastern end of this axis. Bacon Hall was added at the axis’ eastern end in 1881. Around this same time, a flagpole marking the eastern terminus of the Center Street path was installed west of Bacon Hall. This pole served as the “vertical center point” of the campus.
In the first years of the twentieth century, campus architect John Galen Howard implemented a bold Beaux-Arts plan for the new UC Berkeley campus. This plan reinforced the Central Glade axis, which terminated at the 1902 Hearst Mining Building, and significantly further increased the prominence of the former Central Street axis, which became Campanile Way with completion of the Campanile (Sather Tower) in 1914.

Page 33 of the HRTR (Appendix B of the Draft EIR) is revised to include the following correction:

Other notable developments from the Beaux-Arts Era include the completion of the Golden Gate Bridge in 1937, and extensive construction in downtown Berkeley, a portion of which was visible from Campanile Way (e.g., the Berkeley Community Theater located on the Berkeley High School campus).

Page 40 of the HRTR (Appendix B of the Draft EIR) is revised to include the following information:

In ARG’s professional opinion, the aspects of the design described above, including physical separation from historic buildings; setbacks at upper stories; and variations in massing, rooflines and materials, in combination with the project’s location along narrow streets in a dense downtown near identified historic buildings of similar height, prevent the height and scale of the project, in and of themselves from having a significant impact on historical resources.

4.2 STAFF-INITIATED TEXT REVISIONS

Page 2-18 of Section 2.0, Project Description, has been revised as follows:

- 302 apartment/condominium units (including 28 affordable units) with an average unit size of 729 square feet

Page 2-19 of Section 2.0, Project Description, has been revised as follows:

If the project’s residential units are rented, the project is subject to the City’s Affordable Housing Mitigation Fee (AMHF) Ordinance (BMC Section 22.20.065), which requires that the applicant either (1) pay an AHMF of $6,040,000 ($20,000 per market-rate unit); (2) provide 28 below-market-rate (BMR) units in lieu of the AHMF; or (3) pay a reduced AHMF in combination with a reduced number of BMR units. Ten percent of the market rate units, or 28 units, are proposed to be designated as below-market-rate units affordable to households earning 50% or less of Area Median Income.

Page 2-57 of Section 2.0, Project Description, has been revised as follows:

2. Generate much-needed high-quality, transit-oriented, and sustainable market rate housing to support and contribute substantial affordable housing (and/or in-lieu
fees to support development of such housing) as required by Section 22.20.065 of the Berkeley Municipal Code.

Figures 28a through 31b of the Infill Environmental Checklist and figures 4.1-4 through 4.1-7 of Section 4.1, Cultural Resources, of the Draft EIR have been updated to show simulations of the most current version of the project plans; most notably this version no longer includes trees and or trellises on the northern portion of the proposed rooftop deck. The revised figures are included at the end of this section.

Page 4.1-17 of the Draft EIR is revised to include the following additional text:

Finally, as discussed in the Infill Environmental Checklist (Appendix A to this EIR), the proposed demolition of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition to the Hotel would be inconsistent with the following adopted City policies:

**General Plan Policy LU-2 Preservation.** Protect Berkeley’s character by identifying, restoring, and preserving historic buildings. (Also see Urban Design and Preservation Policies UD-1 through UD-3.)

**Policy HD-1.1: Historic Buildings & Sites.** Preserve historic buildings and sites of Downtown, and provide where appropriate for their adaptive reuse and/or intensification.

a) **Retain Landmarks and Structures of Merit in Downtown.** Designate, where appropriate, additional properties as Landmarks or Structures of Merit.

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

c) **For the most common practices and alterations, compile reference materials that describe appropriate maintenance and façade improvements document, and where additional information can be obtained.** Develop materials using community participation. Make these materials available to property owners, contractors, and architects.

d) **Allow flexibility in parking and other standards, such as exemption from on-site open space requirements, when such buildings are substantially and appropriately preserved or restored as part of a development project.** Review and, if necessary, revise standards that may discourage historic rehabilitation and adaptive reuse. Identify potential sources of financing, tax relief (such as through the Mills Act), grants, and a full range of other incentives and resources for historic preservation, such as those relating to
accessibility and seismic upgrading. Provide this information to owners of historic resources (see Policies ES-4.1, LU-2.1 and LU-4.3).

Page 4.1-33 of the Draft EIR is revised to include the following additional text:

**Significance After Mitigation.** Implementation of the mitigation measures above would reduce the project’s compatibility impacts on historic resources to a less than significant level, 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.

Page 5-16 of Section 5.0, *Alternatives,* has been revised as follows:

Another project objective is to generate high-quality market rate housing to support; 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 and to contribute to a vibrant urban character with 500-600 new residents. The project would include 302 apartment/condominium units (including 28 affordable units).

Page 5-22 of Section 5.0, *Alternatives,* has been revised as follows:

Another project objective is to generate high-quality market rate housing to support; 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 and to contribute to a vibrant urban character with 500-600 new residents. The project would include 302 apartment/condominium units (including 28 affordable units).

Page 5 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised as follows:

- 302 apartment/condominium units (including 28 affordable units) with an average unit size of 729 square feet

Page 31 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised as follows:

If the project’s residential units are rented, the project is subject to the City’s Affordable Housing Mitigation Fee (AMHF) Ordinance (BMC Section 22.20.065), which requires that the applicant either (1) pay an AHMF of $6,040,000 ($20,000 per market-rate unit); (2) provide 28 below-market-rate (BMR) units in lieu of the AHMF; or (3) pay a reduced AHMF in combination with a reduced number of BMR units if ten percent of the market rate units, or 28 units, are proposed to be designated as below-market-rate units affordable to households earning 50% or less of Area Median Income.
Page 118 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised as follows:

- 302 apartment/condominium units (including 28 affordable units)

Page 144 of the Infill Environmental Checklist (Appendix A of the Draft EIR) is revised as follows:

The project site is within the Core Area and is within two blocks of a major transit hub, and the proposed project includes a high residential density, with a total of 302 units on site. The proposed units range from studios to three-bedrooms and include affordable units.
Photosimulations
Milvia at Allston

Source: Environmental Vision, January 2015
Visual Impact Calculation
Milvia at Allston

Source: Environmental Vision, January 2015
Photosimulations

Milvia at Kittredge

Figure 29a

City of Berkeley
Infill Environmental Checklist
2211 Harold Way Mixed-Use Project

Visual Impact Calculation
Milvia at Kittredge

Source: Environmental Vision, January 2015
City of Berkeley
Existing view from Shattuck Avenue at Center Street looking south (VP 3)

Visual simulation of Proposed Project

Photosimulations
Shattuck Center

Source: Environmental Vision, January 2015

City of Berkeley
Visual simulation of Proposed Project

Existing view with Proposed Project overlaid.

Visual Impact Calculation
Shattuck Center

Source: Environmental Vision, January 2015
Photosimulations
Campanile

Source: Environmental Vision, January 2015

City of Berkeley
Infill Environmental Checklist
2211 Harold Way Mixed-Use Project

Visual simulation of Proposed Project

Existing view with Proposed Project overlaid.

Visual Impact Calculation
Campanile

Source: Environmental Vision, January 2015

City of Berkeley
Existing view from UC Berkeley Campanile base at north side of stairs looking west

Visual simulation of Proposed Project.
Visual Simulations

Existing view from UC Berkeley Campanile base at middle of stairs looking west (Viewpoint 2).

Visual Simulation of proposed project.
View from Campanile Way Near the South Entrance to Doe Library, Approximately 300 Feet West of the Campanile (Viewpoint 4).

Visual Simulation of proposed project.