



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

FOR BOARD ACTION
JUNE 25, 2009

1200 Ashby Avenue

Modification #09-7000010 to Use Permit #07-10000133 to change an approved 5-story, 98-unit mixed use building to an affordable senior (62+) housing project; modifications reduce total floor area by 9,090 square feet, increase ground-floor commercial space by about 1,600 square feet, and reduce total parking spaces from 114 to 44.

(C-W, West Berkeley Commercial; AS)

I. Application Basics

A. New Zoning Permits Required:

- Use Permit Modification, under BMC Section 23B.56.020
- Use Permit to reduce residential parking for senior housing by 75 percent (97 spaces normally required, 24 spaces proposed), under BMC Section 23E.64.080.G

B. Zoning Permits Previously Approved:

- Use Permit to construct a Mixed Use Development, under BMC Section 23E.64.030.A
- Use Permit to construct more than 5,000 square feet of new floor area, under BMC Section 23C.08.050.B.1
- Use Permit to allow a full-service restaurant of up to 2,000 square feet, under BMC Section 23E.64.030.A
- Use Permit to allow service of beer, wine and distilled spirits incidental to a food service establishment (ABC type 47), under BMC Sections 23E.64.030.A and 23E.16.040.A
- Administrative Use Permit to allow Sidewalk Café Seating, under BMC Section 23E.24.010.A
- Use Permit to reduce required parking for commercial uses by 4 spaces, under BMC Section 23E.64.080.H
- Administrative Use Permit to allow commercial operating hours of 6:00 a.m. to 12:00 a.m., under BMC Section 23E.64.060.A

- Administrative Use Permit to construct fence in excess of 6 feet, under BMC Section 23E.04.040.A
- Administrative Use Permit to allow mechanical room, stairwell, and elevator shaft to exceed height limit (23E.04.020.C)

C. Permits Previously Approved Pursuant to State Density Bonus Law:

- Variance to allow 5 stories, where 4 stories are otherwise permitted (23E.64.070.B)
- Variance to allow average height of 60 feet, 3 inches, where 50 feet is otherwise permitted (23E.64.070.B)
- Variance to allow floor area ratio of 3.3, where 3.0 is otherwise permitted (23E.64.070.A); this permit is not required for the proposed modifications, which reduce the floor area ratio to 2.94
- Use Permit to waive required 15-foot setbacks at northeast and southeast corners of site (Ashby Avenue and Carrison Street) (23E.04.050.E)

D. CEQA Determination:

As discussed more fully in Attachment 1, Finding 1, the proposed modifications are exempt from CEQA under Sections 15061(b)(3), 15305 (“Minor Alterations in Land Use Limitations”) and 15332 (“In-Fill Development Projects”) of the CEQA Guidelines.

E. Parties Involved:

- Property Owner/Applicant CityCentric Investments, 5715 Claremont Avenue, Oakland, CA 94618

Figure 1: Vicinity Map

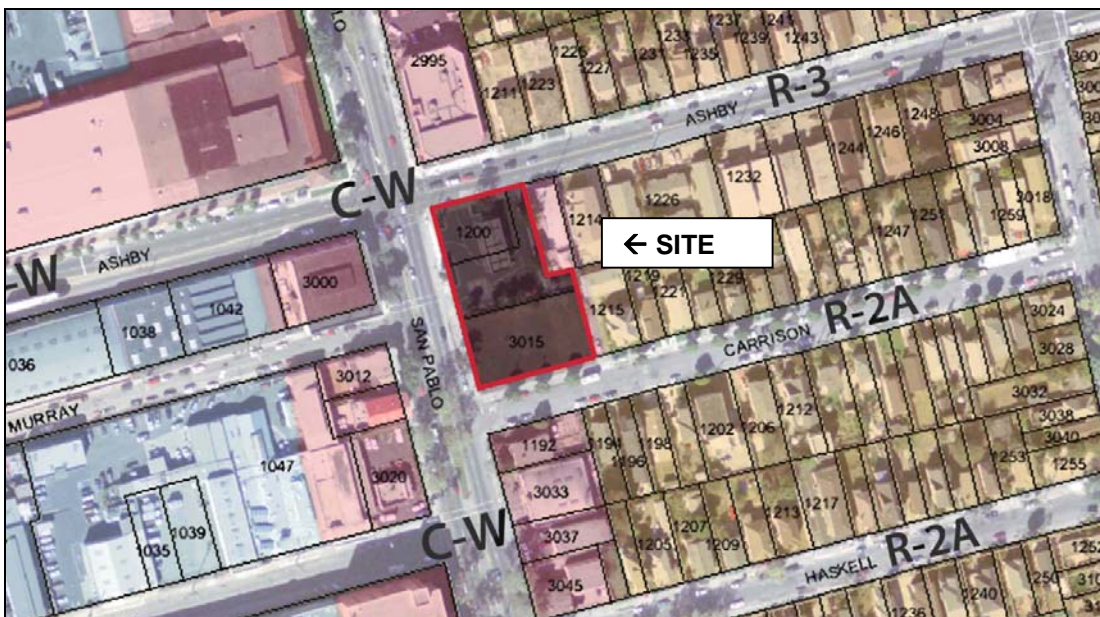
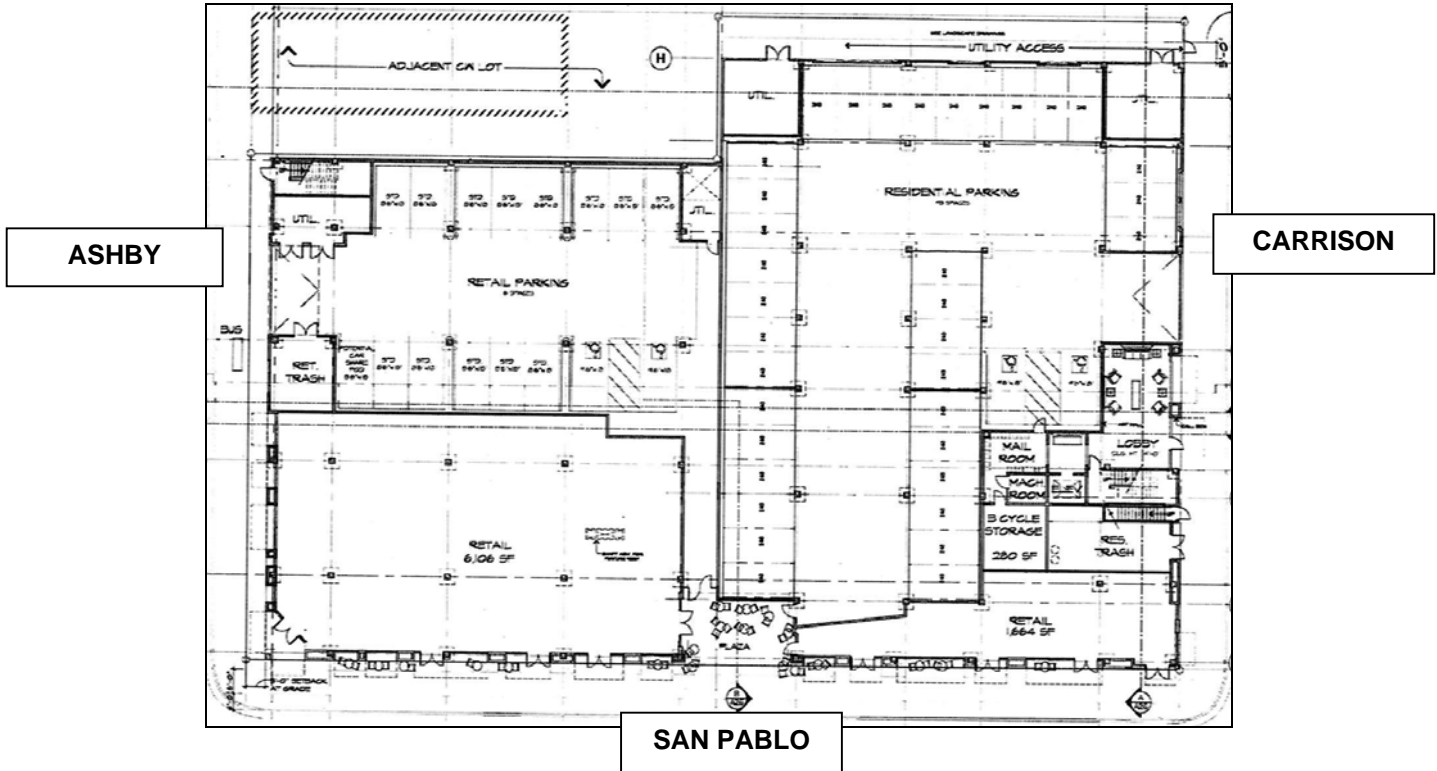


Figure 2: Ground Floor Plans (Approved and Proposed)

Approved Plan:



Proposed Plan:

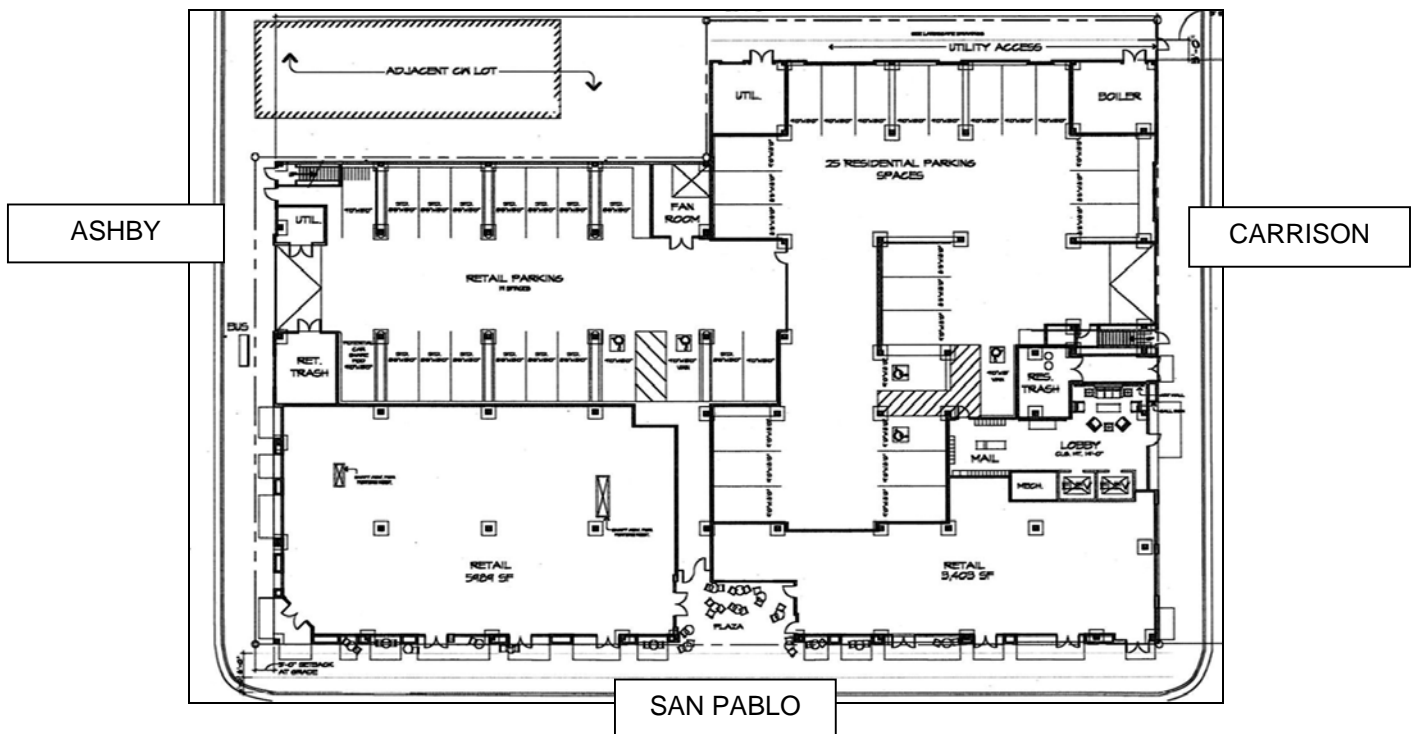
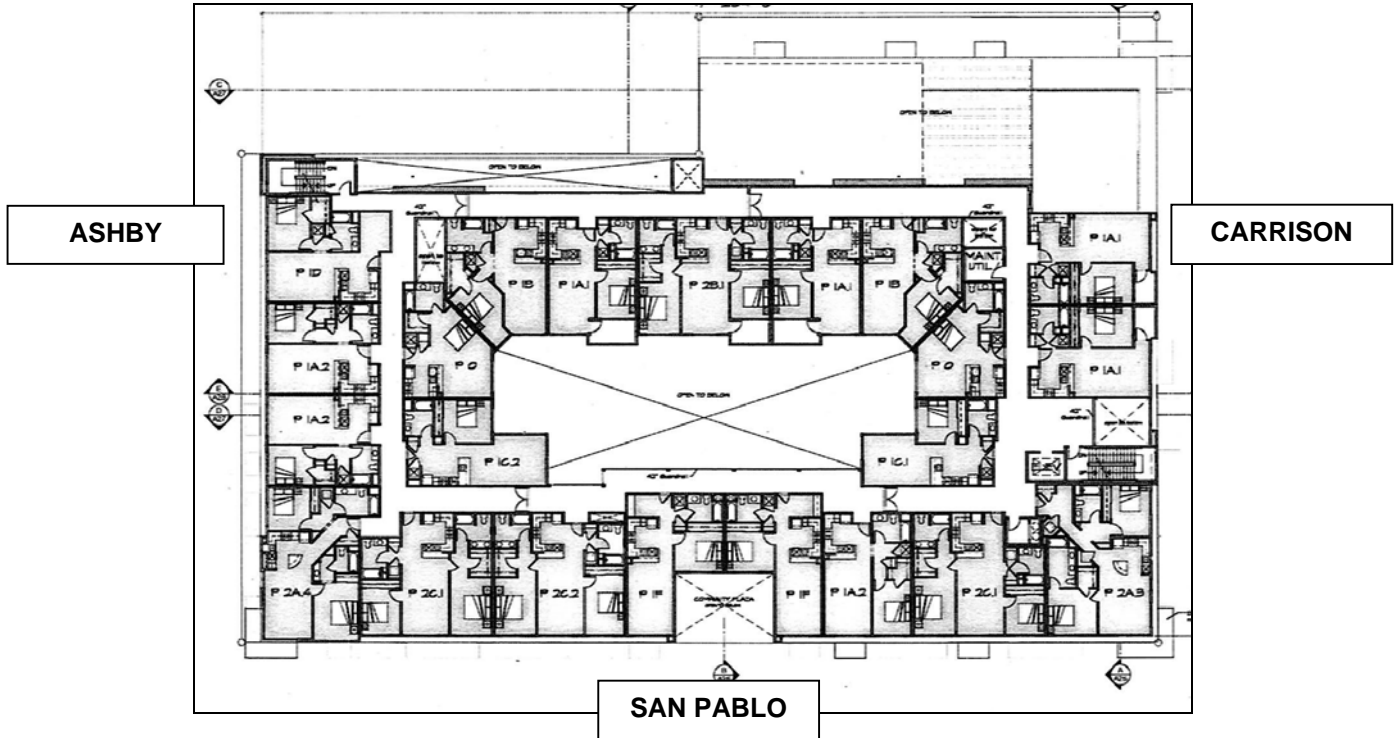


Figure 3: Fifth Floor Plans (Approved and Proposed)

Approved Plan:



Proposed Plan:

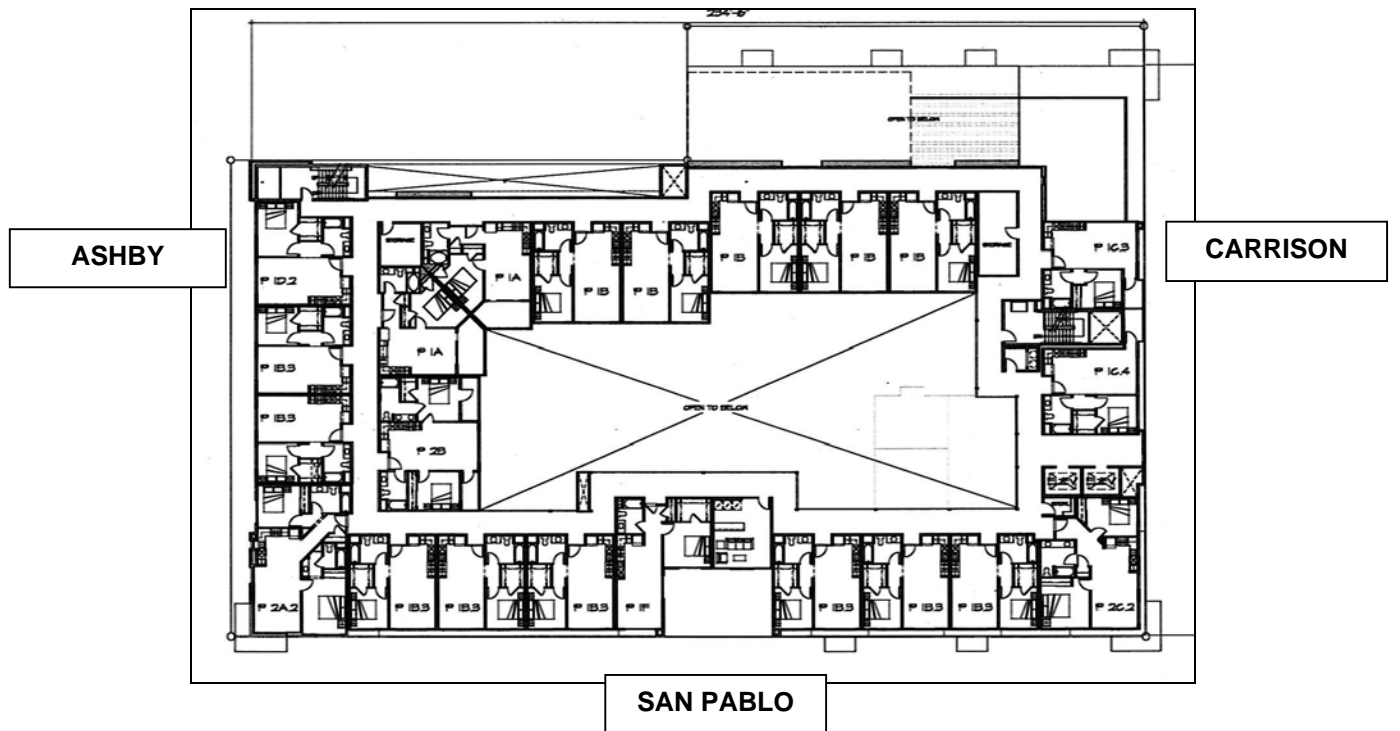


Table 1: Use Information

		<u>Existing Use</u>	<u>Zoning District</u>	<u>General Plan Designation</u>
Subject Property		Vacant (former gas station)	C-W	Avenue Commercial
Surrounding Properties	North (across Ashby Avenue)	Walgreens Drug Store	C-W/R-3	Avenue Commercial/ Medium Density Residential
	South (across Carrison Street)	Multi-family residential on San Pablo Avenue and single-family residential dwellings immediately east of San Pablo Avenue	C-W/R-2A	Avenue Commercial/ Medium Density Residential
	East	Multi-family and single-family residential dwellings	C-W (R-3, R-2A further east)	Avenue Commercial (Medium Density Residential further east)
	West (across San Pablo Avenue)	2-story commercial office building	C-W (MU-LI further west)	Avenue Commercial (Manufacturing further west)

Table 2: Project Chronology

<u>Date</u>	<u>Action</u>
November 16, 2007	Use Permit application #07-10000133 submitted
January 22, 2009	ZAB approves Use Permit #07-10000133
May 5, 2009	City Council affirms ZAB decision
May 13, 2009	Proposed modifications submitted
June 11, 2009	Public hearing notices distributed
June 18, 2009	Design Review Committee considers proposed modifications
June 25, 2009	ZAB hearing
September 10, 2009	PSA deadline

Table 3: Development Standards

Standard BMC Sections 23E.64.070-080		Approved Project	Proposed Project	Permitted/ Required
Lot Area (sq. ft.)		33,585	No change	N/A
Gross Floor Area (sq. ft.)	Total	111,742	98,062	100,755
	Residential	103,649	88,188	N/A
	Commercial	8,093	9,874	N/A
Floor Area Ratio		3.33*	2.94	3.0
Dwelling Units		98	No change	N/A
Building Height	Average (ft.)	60'-3''*	No change	50
	Stories	5*	No change	4
Building Setbacks (ft.)	Front (Ashby) ^c	0*	No change	0-15
	Front (Carrison) ^c	0*	No change	0-15
	East Side	0-10	No change	0-5
	West Side (San Pablo)	0	No change	0
Usable Open Space (sq. ft.)		6,424	8,924	3,920
Parking	Automobile (total)	114	44	120 (47 with UP for seniors)
	Residential	98	25** (24 for seniors, 1 for manager)	98 (25 with Use Permit)
	Commercial	15	18	22
	Shared Vehicle	1	No change	N/A
	Bicycle	30	4	4

* Waivers/modifications granted under State density bonus law.

** Use Permit requested under Section 23E.64.080.G.

II. Project Setting

A. Neighborhood/Area Description:

The project site is located in West Berkeley, at the southeast corner of San Pablo Avenue and Ashby Avenue. This portion of San Pablo Avenue is generally developed with one- and two-story commercial and mixed-use buildings, and abuts a lower-density residential neighborhood to the east and a light industrial/commercial district to the west.

Recent major projects in the immediate area include a five-story mixed-use building at 1001 Ashby Avenue (completed), the Berkeley Bowl West supermarket about 1/3 mile to the west at 920 Heinz Avenue (completed), and a five-story mixed-use building at 3020 San Pablo Avenue (approved but not under construction). Further to the north, a four-story mixed-use building was completed at 2700 San Pablo Avenue, and four- and five-story mixed-use buildings have been approved but not yet built at 2720, 2747, and 2748 San Pablo Avenue.

The site abuts two residential properties to the east. To the east on Ashby Avenue is a relatively narrow lot that is zoned C-W but developed with a single-story, four-unit apartment building located along its east property line. To the east on Carrison Street is a relatively wide lot that is mainly in the R-2A District with a narrow strip along the west side zoned C-W; the lot is developed with a three-story residential building at the front that is set back about 25 feet from the west property line, and a single-story residential building at the rear; a parking area occupies the southwest portion of the lot. Photos of the neighborhood and site are provided in Attachment 3.

B. Site Conditions:

The site is currently vacant and has an area of 34,210 square feet (0.79 acre) and three street frontages: Ashby Avenue on the north, San Pablo Avenue on the west, and Carrison Street on the south. The most recent land use was a service station, which was removed in January 2005.

III. Project Description

The current proposal would modify a mixed-use building approved by the ZAB on January 22, 2009 (and affirmed by the City Council on May 5). Following is a brief description of the approved project and the proposed modifications.

A. Approved Project:

The approved building includes 98 dwelling units (15 at below-market rents or sales prices), about 8,093 square feet of commercial space on the ground floor (up to 2,000 of which could be for a full-service restaurant), and 114 parking spaces (98 residential, 15 commercial, and one for a shared vehicle).

The building has an average height of 60 feet, 3 inches and covers almost all of the lot. The majority of the building is 5 stories, except at the southeast portion where it steps down to three and four stories. The residential stories (two through five) are designed around a common courtyard of about 3,500 square feet at the second story. The building also includes a common roof deck at the southeast corner on the fourth story. The building provides a landscaped 10-foot setback along the southeast property line. Along the northeast property line, the building has no setback for the first 25 feet from Ashby Avenue, and then is set back about 9 feet starting at the second floor level, where a roof deck is provided. Along Ashby Avenue, the building

is setback 5 feet in order to allow construction of a dedicated westbound left turn lane onto San Pablo Avenue. The building also includes a community plaza of about 500 square feet about halfway along the San Pablo frontage, with a “key hole” opening at the second story above the plaza.

B. Proposed Modifications:

In order to take advantage of financing available through the Low Income Housing Tax Credit (LIHTC) program and the City’s Housing Trust Fund (HTF), the applicants have decided to construct the project as a low-income senior housing development, with the same number of units and essentially the same exterior building envelope as the approved project (except for the modifications discussed further below). Except for one unit for a building manager, the dwelling units would be reserved for persons aged 62 years or older.¹ All units (including the manager’s unit) would be rented to households earning less than area median income (AMI), as follows:

- 10 units for households earning up to 30 percent of AMI
- 15 units for households earning up to 45 percent of AMI
- 49 units for households earning up to 50 percent of AMI
- 24 units for households earning up to 60 percent of AMI

LIHTC and HTF funding will be awarded in September. If the project is selected for this funding, it would be subject to the above affordability levels and other provisions of the LIHTC program for 55 years. City inclusionary requirements and State density bonus requirements would also apply during that time (the latter for the first 30 years only), but would likely be superceded by the deeper affordability requirements of the LIHTC program. After 55 years, and for the remaining life of the project, 15 units would be subject to the inclusionary requirements, but all units would continue to be available only to seniors due to the requested parking reduction (see “Key Issues” below for further discussion). The applicants have requested the option of exercising either a modified Use Permit (based on the current proposal) or the approved Use Permit, depending on whether their application for LIHTC/HTF funding is successful.

The applicants have an agreement with LifeLong Medical Care, a Berkeley-based non-profit organization, to provide four hours of social services per day at no charge for project residents. Services would include life skills training, case management and counseling, educational classes, mediation, and shuttle service to LifeLong’s Over 60 Health Center at 3260 Sacramento Street (at Alcatraz), about 0.7 miles from the project site.

The modifications include the following changes to the building design:

¹ Although the LIHTC program allows persons aged 55 years or older, the applicant has committed to a minimum age of 62 in order to qualify for a parking reduction under Section 23E.64.080.G. See “Key Issues” for further discussion.

- Retail parking increased from 15 to 18 spaces (see “Key Issues” for further discussion)
- Residential parking decreased from 98 to 25 spaces (Use Permit requested for this reduction; see “Key Issues” for further discussion)
- Retail space at southwest corner increased by about 1,700 square feet, and additional windows provided on Carrison elevation.
- Residential lobby shifted west (adjacent to retail space), increased in size and additional windows provided.
- Courtyard area increased by 2,071 square feet, mainly at southern end. About 1,900 square feet of residential community space added at southwest corner of courtyard.
- Community plaza increased by 29 square feet and shifted slightly to the south.
- Second elevator added, increasing size of elevator tower by about 80 square feet.
- Stair tower at northeast corner enlarged by about 50 square feet (east wall extended about 6 feet to the south).
- Southeast corner of fourth and fifth stories extended about 6 feet to the east and south.

IV. Community Discussion

A. Neighbor/Community Concerns:

Public hearing notices were distributed to owners and residents within 300 feet of the site on June 11, 2009. Staff has received correspondence both in opposition to, and in support of, the project (see Attachment 9). Concerns raised by neighbors in opposition include the applicants’ decision not to reduce the exterior building envelope, and the proposed parking reduction.

B. Committee Review:

On June 18, the Design Review Committee granted the proposed exterior changes a favorable recommendation by a 7-0 vote.

V. Issues and Analysis

A. Inclusionary Housing/Density Bonus:

Based on the 55-year affordability commitment required to qualify for the LIHTC program, the project would qualify for a density bonus of 35 percent. Staff has re-calculated the density bonus based on the revised building envelope (see Attachment 5), and the calculations show that the project would qualify for a bonus of 27 units, although only 23 are requested. To allow construction of the density bonus units, the applicant has requested that the ZAB apply the previously approved Variances for building height, and the Use Permit for setback encroachments at the northeast and southeast corners, to the modified project.

B. Traffic and Circulation:

The applicants' transportation consultant has submitted a revised trip generation analysis for the revised project (see Attachment 6), which anticipates that traffic will be about 60 percent less than the approved project during the weekday a.m. peak hour, about 35 percent less during the weekday p.m. peak hour, and about 50 percent less during the Saturday peak hour. The applicants have maintained their previous offer to dedicate property along Ashby Avenue in order to allow a new westbound left turn lane and signal on Ashby. Because the modified project will generate less traffic than the approved project, it will have less impact than the approved project. A City traffic engineer has reviewed the revised traffic analysis and concurs with its findings.

C. Parking Reductions:

Residential: Section 23E.64.080.G allows the ZAB to reduce the required residential parking for senior housing units by up to 75 percent. There are no specific findings for approval of the reduction. While each project must be considered on its own merits, the requested parking reduction is similar to reductions granted for several recent senior housing projects:

- 1535 University Avenue (2005): 17 spaces for 79 units (.22 spaces per unit, 38 percent of normal C-1 requirement)
- 2577 San Pablo Avenue (2003): 7 spaces for 28 units (.25 spaces per unit, 25 percent of normal C-W requirement)
- 2517 Sacramento Street (2003): 13 spaces for 39 units (.33 spaces per unit; 43 percent of normal C-SA requirement)

These projects were approved without formal parking demand studies, and, as far as staff is aware, no demand studies have been conducted for these projects since their construction. The Institute of Traffic Engineers (ITE) has collected parking demand data from several senior housing projects, which indicate that parking demand ranges from about 0.1 to 0.5 spaces per unit on weekdays and Saturdays, and, due to visitors, about 1 space per unit on Sundays (see Attachment 7). The projects studied were located in suburban Chicago and in Huntington Beach, Orange County, California. No further information regarding the income levels or transit service at these projects was available. Generally, vehicle ownership tends to decrease with lower household incomes and better transit service.

Staff requested that the Public Works Transportation Division review the revised traffic estimates for the project, and other available data including the ITE studies, and advise whether the proposed parking supply would be adequate. While the Transportation Division agrees that the project location and the available parking demand data would support a substantial parking reduction, it has requested that the

applicants provide additional site- and area-specific data in support of the specific reduction proposed. In addition, the Transportation Division has suggested that with additional parking demand reduction measures, the proposed parking may be adequate, but the applicants need to document this with additional data and analysis. Such measures could include:

- Provide AC Transit monthly passes (e.g., Translink cards) for all residents.
- Provide shared vehicle (e.g., City Carshare or Zipcar) and pay residents' application and membership fees. The applicants have designated a parking space for a "potential" shared vehicle but have not committed to provide one.
- Provide shuttle service to nearby services, Downtown and/or BART, or contribute to area-wide shuttle service.
- Provide transit information to residents via bulletin board or display case in lobby and upon signing leases.
- Lease parking spaces separately from dwelling units. This practice, also known as "unbundling," reveals the true cost of parking to residents and helps discourage car ownership.
- Provide on-site bicycle parking for residents (none currently provided).
- Make surplus commercial parking spaces available to residents and/or visitors on evenings and weekends.

The applicants have already agreed to the last four measures, and staff has incorporated these into the attached conditions (see Conditions 72 and 74-77). Staff has also included a condition that prohibits project residents (and commercial tenants) from obtaining Residential Preferential Parking (RPP) permits should the City designate this area as part of an RPP zone in the future.

Some of the above measures may overlap in terms of the parking demand reduction provided, and not all may be necessary. The ZAB may wish to impose additional requirements based on any additional data from the applicants and recommendations from the Transportation Division that staff provides at the hearing. Based on the parking data currently available, the proximity of basic good and services such as the Berkeley Bowl West supermarket, and the City's policies promoting reliance on transit rather than the private automobile (see Policy T-16 on p. 13), staff has prepared findings for approval of the reduction, which the ZAB may wish to modify prior to adoption (see Attachment 1, Finding 11).

Commercial: Like the approved project, the modified project requires a commercial parking waiver of four spaces, although the amount of parking currently proposed is greater in proportion to the amount required (82 percent vs. 79 percent). The applicant's transportation consultant conducted a parking survey of the surrounding area for the approved project, which found that more than 30 percent of the total on-street parking spaces on the five nearest block faces were available during the afternoon the spaces were surveyed. In combination with the on-site parking, the study concluded that there would not be excessive impact on the neighborhood parking supply. Given that the current parking waiver is less in proportion to the amount required than the approved parking waiver, staff does not anticipate this

waiver to substantially affect on-street parking availability in the adjacent neighborhood.

D. Exterior Changes:

As noted above, the Design Review Committee has granted the proposed exterior changes a favorable recommendation. The enlarged community plaza and additional retail space and windows on San Pablo would improve the project's pedestrian friendliness and provide additional benefits to the neighborhood. Other changes, such as the enlarged elevator and stair towers and reduced setbacks at the southeast corner of the fourth and fifth stories, are relatively minor and would not substantially increase the building's impacts on the neighborhood. On the whole, the modifications improve the overall building design and benefits to the neighborhood.

VI. General Plan and West Berkeley Plan Consistency:

Because the proposed modifications do not substantially change the approved project, they are consistent with the policies of the General Plan and West Berkeley Plan discussed in the staff report for the approved project. In addition, the following General Plan policies apply to the modifications, as follows:

- Policy T-16 – Access by Proximity (Action E): In locations served by transit, consider reduction or elimination of parking requirements for residential development. *Staff analysis: The proposed parking reduction is consistent with this policy, based on the excellent transit service available at the site and the proximity to basic goods and services such as the new Berkeley Bowl West supermarket.*
- Policy H-24 – The Elderly and the Disabled: Support housing program activities that increase the ability of elderly and disabled households to remain in their homes or neighborhoods, and if necessary, to locate other suitable affordable housing to rent or purchase. *Staff analysis: The project is consistent with this policy because it provides 97 units for seniors in an area of Berkeley with a relatively high proportion of lower-income seniors.*

VII. Recommendation

Because of the modified project's consistency with the Zoning Ordinance and General Plan (with required density bonus waivers/modifications), benefits to the surrounding neighborhood and the City, and lack of detrimental impacts on surrounding properties, Staff recommends that the Zoning Adjustments Board APPROVE Use Permit Modification #09-10000010 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Proposed Plans, May 13, 2009
3. Approved Plans, November 10, 2008
4. Applicant Statement
5. Density Bonus Calculations
6. Revised Traffic Analysis
7. ITE Parking Data for Senior Housing Projects
8. Public Hearing Notice
9. Correspondence

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