



# 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

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FOR BOARD ACTION  
FEBRUARY 28, 2013

## 2024 Durant/2025 Channing – “The Durant”

Use Permit #12-1000017 to demolish a church and construct an eight-story, 96-unit, apartment building with a mix of one, two, and three bedroom units and basement level parking with 36 parking spaces.

### I. Background

#### A. Land Use Designations:

- General Plan: DT – Downtown
- Zoning: C-DMU – Downtown Mixed Use District Buffer

#### B. Zoning Permits Required:

- Use Permit for construction of dwelling units, under BMC Section 23E.68.030
- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC Section 23E.68.050
- Use Permit for demolition of a non-residential dwelling unit, under BMC Section 23C.08.050.A
- Use Permit to allow a front yard setback of greater than five feet, under BMC Section 23E.58.070.C
- Use Permit to allow a front yard setback less than five feet when confronting a residentially zoned property, under BMC Section 23E.04.050.E
- Use Permit to reduce the required 20-foot setback where the building exceeds 45 feet, on an interior side or rear lot line that abuts a residentially zoned lot, under BMC Section 23E.58.070.C.2
- Use Permit to reduce the required 5-foot setback on the portion of the building greater than 65 feet from lot frontage and more than 20 feet in height, under BMC Section 23E.68.070.C
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC Section 23E.04.020.C

**C. Waivers/Reductions Requested Pursuant to State Density Bonus Law:**

- Building height of 84 feet where 50 feet is allowed, up to a 60-foot maximum height allowable with a Use Permit (23E.68.070.A)

**D. CEQA Determination:**

Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

- The proposed project is consistent with the applicable General Plan designation and policies (see “General Plan Consistency” for further discussion), and with the applicable zoning designation and regulations, with the exception of mandated density bonus waivers/modifications (see under “Key Issues” for further discussion).
- The project occurs within the Berkeley city limits on a project site of no more than five acres substantially surrounded by urban uses.
- The site was previously developed and has no value as habitat for endangered, rare or threatened species.
- The project would not result in any significant effects related to traffic (see under “Key Issues” for further discussion), noise, air quality or water quality.
- The site can be adequately served by all required utilities and public services.

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource (see under “Committee Review–Landmarks Preservation Commission” for further discussion).

**E. Parties Involved:**

- Applicant/Architect Dave Johnson, Johnson Lyman Architects, 1375 Locust Street, #202, Walnut Creek, CA 94596
- Developer Bill Schrader, The Austin Group LLC, 164 Oak Road, Alamo, CA 94507
- Property Owner 2024 Durant Presbytery of San Francisco, 2024 Durant Street, Berkeley, CA 94704
- Property Owner 2025 Channing Tu Casa Properties Inc., 2140 Santa Cruz Avenue B204, Menlo Park, CA 94025

Figure 1: Vicinity Map

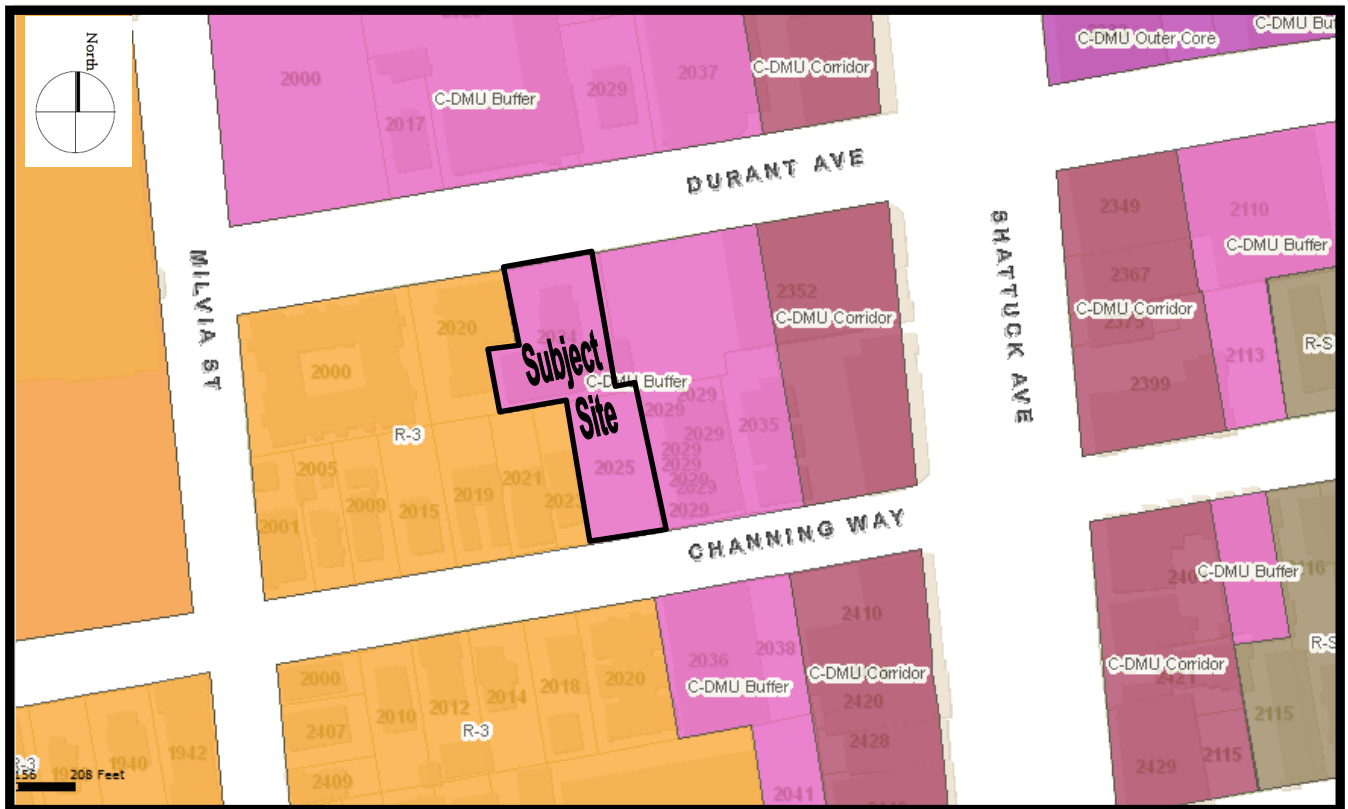
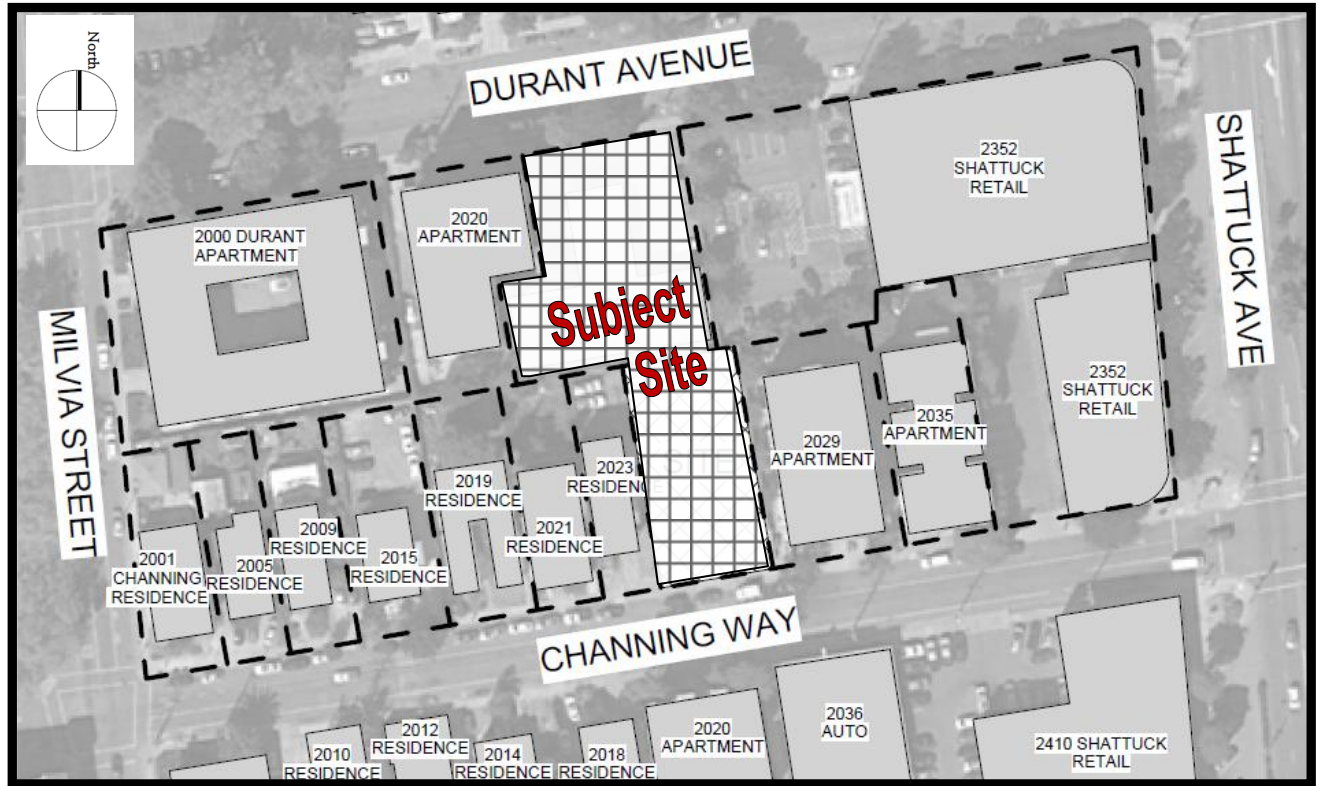


Figure 2: Site Plan



**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Properties		Church Offices & Vacant Lot	C-DMU Buffer	Downtown
Surrounding Properties	North	Multi-Family Residential	C-DMU Buffer	Downtown
	South	Auto Repair & Multi-Family Residential	C-DMU Buffer & R-3	Downtown & High Density Residential
	East	Multi-Family, Parking Lot, Commercial	C-DMU Buffer	Downtown
	West	Senior Housing, Multi-Family Housing	R-3	High Density Residential

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Density Bonus	Y	Applicant has requested a density bonus, but no concessions.
Encroachments into Public Right-of-Way	N	The project does not propose any encroachments into the public right-of-way.
Historic Resources	N	The church to be demolished does not meet the criteria for the California Register or a City of Berkeley Landmark. There are no abutting or confronting historic resources.
Inclusionary Housing	Y	Project provides 7 inclusionary units.
Seismic Hazards	N	Site is not mapped within any hazard zones.
Soil/Groundwater Contamination	N	Site has no history of soil or groundwater contamination.
Green Building	Y	Project approval is conditioned to meet LEED Gold or higher.

**Table 3: Project Chronology**

<b>Date</b>	<b>Action</b>
May 4, 2012	Application submitted
July 19, 2012	DRC Preview Meeting
August 16, 2012	DRC Preliminary Meeting
September 6, 2012	LPC Demo Referral Meeting
September 20, 2012	Continuation DRC Preliminary Meeting
November 19, 2012	Density Bonus Plan Set Submitted
December 10, 2012	Application deemed complete
December 13, 2012	DRC Preliminary Meeting
January 10, 2013	Public hearing notices mailed/posted
January 24, 2013	ZAB hearing—Continued to February 28, 2013
February 8, 2013	PSA deadline <sup>1</sup>
February 14, 2013	Public hearing notices mailed/posted
February 28, 2013	ZAB hearing

1. Project must be approved or denied within 60 days after being determined to be exempt from CEQA, or 60 days after adoption of a negative declaration, or 180 days after adoption of an EIR (Govt. Code §65950).

**Table 4: Development Standards**

Standard BMC Sections 23E.68.070-080		Existing Conditions		Proposed (Lot Merge)	Permitted/ Required
		2024 Durant	2025 Channing		
Lot Area (sq. ft.)		13,474	9,230	22,704	---
Gross Floor Area (sq. ft.)		8,959	0	113,279	---
Floor Area Ratio		0.66	0	5	---
Dwelling Units	Total	0	0	96	---
	Affordable	0	0	7	0
Building Height	Average (ft.)	18	0	63.25	---
	Maximum (ft.)	26	0	84 (43.5 on the Channing parcel)	50 60 (with Use Permit) <sup>(1)</sup>
	Stories	2	0	8 (4 on the Channing parcel)	---
Building Setbacks (ft.) <sup>(3)</sup>	Front <sup>(2)</sup> (Durant)	33	n/a	11	0 - 5 max. (where building height ≤ 20') 0 (where building height >20')
	Front <sup>(2)</sup> (Channing)	n/a	n/a	13	15 (portion of lot confronting R-3) 0 - 5 max. (where building height ≤ 20') 0 (where building height >20')
	West Side	5	n/a	5 (8 on the Durant parcel)	5 <sup>(4)</sup> 20 (where building >45' in height) <sup>(5)</sup>
	East Side	5	n/a	3.75 (to balconies; 6.5 to face of building on the Durant parcel) (5 on the Channing parcel)	0 (0-65' from lot frontage) 5 (>65' from lot frontage where building >20' in height) 15 (>65' from lot frontage where building >75' in height)
Lot Coverage (%)		58	0	65	---
Usable Open Space (sq. ft.)		n/a	n/a	8,096	80 per unit 7,680 total
Parking	Automobile	13	0	36	32 (for DUs: 1:3 units)
	Vehicle Sharing	0	0	1	1
	Bicycle	0	0	10	0

(1) 2029 Channing Way holds an easement on 2025 Channing Way limiting building height to 47-feet.

(2) As typical of many through lots, this property has two frontages and no rear.

(3) All setbacks may be modified by a Use Permit

(4) When a side yard abuts a lot in a residential District, the minimum width of the side yard shall be five (5) feet (BMC §23E.04.050).

(5) For a lot that abuts the interior side lot line of a residentially-zoned lot, a new building shall be set back from the shared property line by 20 feet where the building exceeds 45 feet in (BMC §23E.68.070.C.2).

**Table 5: Project Summary: Units, Bedrooms, and Useable Opens Space by Floor**

Building Level	Gross Area (sq. ft.)	1 Bdrm Units	2 Bdrm Units	3 Bdrm Units	Bedroom Count	Apartment Count	Open Space (sq. ft.)
Basement	16,984	---	---	---	---	---	---
Ground	13,465	3	7	3	26	13	2,110
Second	14,725	4	7	5	33	16	---
Third	14,725	4	7	5	33	16	---
Fourth	14,725	4	7	5	33	16	---
Fifth	8,915	2	4	2	16	8	---
Sixth	8,180	3	4	2	17	9	---
Seventh	8,180	3	4	2	17	9	---
Eighth	8,180	3	4	2	17	9	---
Roof	5,100	---	---	---	---	---	5,986
<b>TOTAL</b>	<b>113,279</b>	<b>26 Bedrooms</b>	<b>88 Bedrooms</b>	<b>78 Bedrooms</b>	<b>192 Bedrooms</b>	<b>96 Units</b>	<b>8,096</b>
		<b>26 Units</b>	<b>44 Units</b>	<b>26 Units</b>			

## II. Project Setting

### A. Neighborhood/Area Description:

The properties (2024 Durant and 2025 Channing) are located in the buffer sub-area of the Downtown Mixed Use zoning district, in what was previously the R-4 residential district before the 2012 City adoption of the Downtown Plan and subsequent Ordinance revisions. The Durant side of the project has apartment buildings across the street and to the west, including Satellite senior housing (Stuart Pratt Manor) directly adjacent to the parcel. The parking lot of a large commercial retail building is directly to the east. Further east of the project site is Shattuck Avenue’s commercial strip, which is characterized by a mix of commercial uses, predominately retail and food service establishments. On the Channing side, there are apartment buildings to the east and across the street, with smaller residential structures to the west.

### B. Site Conditions:

The subject site is comprised of two separate parcels (2025 Channing Way and 2024 Durant Avenue) located mid-block between Channing Way to the south and Durant Avenue on the north, and between Milvia Street on the west and Shattuck Avenue on the east.

The parcel at 2024 Durant Avenue is a 13,474-square foot, L-shaped lot that is 130 feet deep, with 89 feet of frontage on Durant Avenue and 123 feet along the rear. The west edge of the property makes a right angled jog between front and rear. The



property is occupied by a church, a small garden, and a surface parking lot in the northeast corner.

The parcel at 2025 Channing Way is an 8,959-square-foot rectangular lot that is 130 feet deep and 71 feet wide. In the early 1990s, the site was left vacant after serving as a parking lot for a commercial building at 2029 Channing Way. In 1995, the commercial building at 2029 Channing Way was demolished and replaced with a 20-unit, five-story/50-foot apartment building. 2029 Channing Way holds an easement on the subject parcel limiting building height to 47-feet.

There is a current entitlement on the property at 2025 Channing Way, approved as Use Permit #02-10000031, and modified by Use Permit Modification #11-70000012, for a four-story, 43.75-foot tall, 13,843-square-foot building to contain 30 dwelling units and basement-level parking for 15 vehicles and 20 bicycles. This current project will supersede all previous entitlements.

### III. Project Description

The project proposes to demolish the existing church building located at 2024 Durant Avenue, merge the lot with 2025 Channing Way, and construct a 96-unit apartment building. The portion of the building located on 2025 Channing Way, would be four stories with a maximum height of 43.5 feet, while the portion of the building located at 2024 Durant Avenue, would be eight stories with a maximum height of 84 feet.

The project includes a ground level patio, two roof top gardens/decks, an exercise room, a lobby, a lounge area, and a basement level parking garage for 35 vehicles with access off of Durant Avenue. The 96-units are a mix of one, two, and three bedroom units, all with full kitchens, baths, and in-unit laundry. Seven of the units would be affordable to Very Low Income households: those earning 50 percent or less of the area median income (AMI). See discussion under Issues and Analysis for further details.

Based on the number of affordable units proposed, the project is entitled to a density bonus and concessions or incentives under Government Code Section 65915. In order to accommodate the density bonus units, the applicant has requested both an increase in the building height from 50 feet to 84 feet (i.e., 5 stories to 8 stories on the Durant Parcel) as well as a reduction in the required 15-foot setback on the portion of the building greater than 65 feet from lot frontage and more than 75 feet in height (which can be granted with a Use Permit under the C-DMU provisions, 23E.68.070.C). The applicant is not requesting any concessions. See "Key Issues" below for further details.

### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City, a pre-application poster was erected by the applicant in May, 2012. On Wednesday, May 23, 2012, the applicant held a community meeting located on site at the San Francisco Presbytery offices. The applicant invited nineteen community groups; seven people attended the meeting. On January 10, 2013, the City mailed notices to adjoining property owners and occupants, and to interested neighborhood

organizations. Since project submittal, staff has received numerous public comments and a petition against the project. Project specific comments address the height, massing, and sunlight impacts of the proposed project. These points are discussed in Key Issues below. A multitude of public correspondence questions the underlying zoning and general plan designation of the subject site. Since these topics are not project specific but are related to the adoption of the Downtown Area Plan, they are not discussed in the staff report. Staff response to these issues is, however, included with the correspondence. Please see Attachment 5 for a summary of public comment. For all public comment received since the inception of the project, please see the online file:

[http://192.168.100.22/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/2024\\_Durant.aspx](http://192.168.100.22/Planning_and_Development/Zoning_Adjustment_Board/2024_Durant.aspx) .

## **B. Committee Review:**

1. Landmarks Preservation Commission: The project involves demolition of the existing church building that is located at 2024 Durant Avenue and was constructed in 1947-48. Pursuant to BMC Section 23C.08.050.C, any application for a Use Permit to demolish a non-residential building that is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit. The applicant hired an architectural historian who prepared a historic evaluation of the building (DPR 523A Primary Record and 523B Building, Structure, and Object Record). The historic evaluation concluded, and staff concurred, that the property does not appear to meet California Register nor City of Berkeley Landmark criteria. At the September 6, 2012 LPC meeting, the LPC followed staff recommendation and took no action to initiate a Landmark or Structure-of-Merit designation.
2. Design Review Committee: The Design Review Committee (DRC) previewed the project on July 19, 2012 and provided several advisory comments including redesigning the useable open space (e.g. roof decks) with more definition and reducing noise impacts to adjacent neighbors; and redesigning the interior spaces so that all bedrooms have natural lighting (i.e. windows). After incorporating these comments, the applicants resubmitted a plan set and the revised project was reviewed for preliminary design on August 16, 2012. At the meeting, the DRC continued the preliminary design review with the following comments:
  - *Balconies appear to be too close to adjacent building.*
  - *Bedroom windows on the side elevations are too big for the proximity to nearby buildings.*
  - *Open space at ground floor should be predominately passive.*
  - *Recommend moving viewing patio back from edge of building.*
  - *Strongly opposed that living spaces still have no natural light.*

The applicants revised the plan set and went before the DRC on September 20, 2012. The DRC made a favorable recommendation (vote: 5-1-0-0) to the ZAB on the proposed design with specific direction for Final Design Review, including:

- *Every habitable space shall have natural light and ventilation.*
- *Common living spaces shall not be separated from kitchen/eating spaces.*
- *Gathering areas on the roof remain small and manageable.*
- *All roof top equipment shall be shown at Final Design Review (FDR).*
- *Rooftop mechanical equipment shall be designed so the noise does not affect the open space.*
- *Window coverings shall be shown at FDR.*
- *Provide screening between the ground floor bedrooms and the adjacent walkway.*

The DRC was mixed on whether the balconies on the northwest corner of the building should remain in the design. The Committee requested that ZAB make a determination as to whether the balconies should remain as a quality design element or whether the impact on the existing adjacent residential units is too much. The DRC also requested the applicants to provide a furniture layout so that ZAB can better determine the adequacy of the living spaces.

Subsequent to the September 20<sup>th</sup> meeting, the applicant revised the project to include below market-rate housing and density bonus units. The project went back to the DRC on December 13, 2012. The DRC passed a recommendation for approval (4-1-0-2). The DRC believes that the design quality of the project meets the City's guidelines and standards, and that the new 8 floor/4 floor massing has nice proportions, but felt that eight stories at this location appears to be in conflict with what was envisioned in the buffer area. The DRC offered the following conditions for the project:

**Conditions:**

- South elevation of the Durant side of the project requires more windows and articulation.
- Address reflective roof surface on the Channing side of the project and reduce its visual impact as much as possible.
- Now that the units will be open to families, not just students, reconsider the proposed horizontal railings for a safer design and present at Final Design Review.

On January 15, 2013, the applicant resubmitted project plan sets incorporating DRC conditions above.

## V. Issues and Analysis

### A. Key Issues:

1. CEQA Determination: As noted above, staff has determined that the project is categorically exempt from the California Environmental Quality Act (CEQA) under the "In-Fill Development Projects" exemption. The project meets all of the requirements of this exemption, as follows:

- a. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations, with the exception of waivers/modifications pursuant to State density bonus law.
- b. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- c. The parcels within the project site have previously been developed (one is currently vacant) and have no value as habitat for endangered, rare or threatened species.
- d. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. Regarding traffic, the project will not exceed significance criteria for any intersections or residential streets. The traffic engineer has reviewed the project's traffic study and concurs with its finding that there will be no significant traffic impacts.
- e. The site is already served by required utilities and public services, which will also adequately serve the project.

Furthermore, the project does not trigger any of the exceptions in CEQA Guidelines Section 15300.2. In particular, the project will not have any significant effects due to unusual circumstances, nor any cumulatively significant impacts (such as traffic), nor will it adversely impact any designated historical resources. The existing buildings are not designated historical resources, and the LPC declined to initiate them for City landmark status at their meeting in September 2012.

The site is not included on any list of hazardous waste sites compiled pursuant to Government Code Section 65962.5. Additionally, the applicant has submitted an analysis of potential air quality impacts and greenhouse gas emissions, and the analysis shows that the project would be consistent with the guidelines of the Bay Area Air Quality Management District.

2. Building Height/Density Bonus: The Zoning Ordinance allows a "base project" of 67,946 square feet with a total of 71 (70.7) "base" dwelling units, at this site.<sup>1</sup> These units could be accommodated in four floors on the Channing Street parcel and five floors in the Durant Street parcel of the project. As allowable and encouraged by State law, the applicant is providing eleven percent of the base project units (i.e., 8 units) at prices affordable to Very Low Income households: those earning 50 percent or less of the area median income (AMI). Based on the provision of these eight affordable units, the project qualifies for a density bonus of 35 percent of the base project, or 25 units, for a total of 96 dwelling units. The project is proposing to add three stories to the Durant parcel to accommodate these 25 units. If the ZAB makes the required findings to approve the proposed

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<sup>1</sup> The Base Project is the version of the project that could be built without a density bonus or any modification of development standards under the Zoning Ordinance.

project, the Board must approve modifications to the development standards (e.g. building height) of the District in order to accommodate the density bonus.<sup>2</sup>

As originally submitted, the project proposed a 74-unit building with 4 stories on the Channing parcel and 6 stories on the Durant parcel. To build the 6<sup>th</sup> story on the Durant parcel, the project had requested a Use Permit to exceed the 50-foot height limit on the Durant parcel of the project to allow the 60-foot maximum (6 stories) allowable in the District.<sup>3</sup> Four stories were proposed on the Channing parcel because it is encumbered by a deed restriction limiting the roof line to be no higher than 47 feet. To accommodate the additional 25 density bonus units, the applicant has designed the project to include three additional stories on the Durant parcel to accommodate the 25 density bonus units (seven on the sixth floor and nine on each of the 7<sup>th</sup> and 8<sup>th</sup> floors), for a building with a total height of eight (8) stories and 84 feet on the Durant parcel.

Due to the height limitation on the Channing parcel, the design options for accommodating the density bonus units are limited to the Durant parcel. As currently proposed, the design has retained the existing 2,110 square feet of ground-level open space between the proposed building and the neighboring senior center and multi-family property at 2023 Channing. Based on the site configuration and limitations, the only other option to accommodate the density bonus units would be to fill in this buffer open space area. Three units per floor could potentially fit in this area resulting in a six-story building design with a massing that maxes out the building envelope. The reduction in two stories would result in less shading for the upper two stories of the senior center during the summer morning hours, but would come at the expense of building separation and additional massing impacts to the multi-family property at 2023 Channing. Staff believes that benefits of increased building separation exceed the impacts of the two additional floors.

3. Neighborhood Compatibility: The neighborhood is a mix of two- to six-story multi-family residential structures along Durant and Channing, and one- to two-story commercial buildings adjacent and fronting Shattuck Avenue. The subject site is located within the buffer area of the newly implemented Downtown Mixed-Use District with the R-3 Multi-Family Residential District to the west and the Downtown Mixed Use Corridor Area and Shattuck Commercial district to the east. As such, the proposed project represents a transition between the lower massing of the R-3 District (35-foot height limit) and the 75-foot height limit of the Downtown Corridor. Although initially proposed as a 6-story/4-story building, upon Council setting the affordable housing mitigation fee, the project was revised to include

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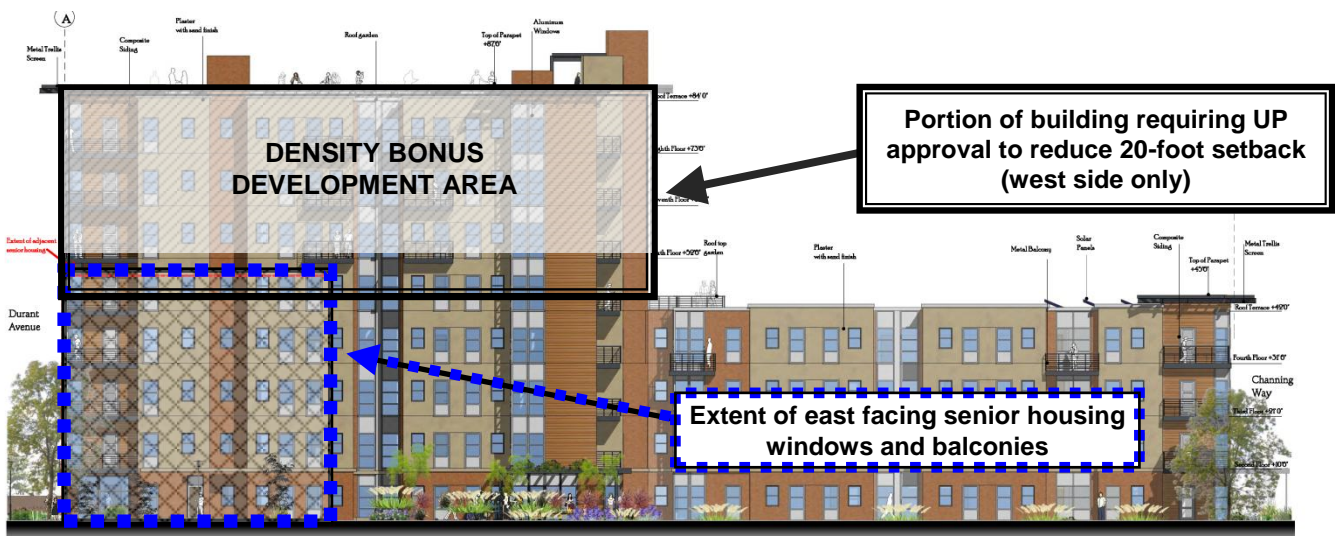
<sup>2</sup> Government Code Section 65915(e)(1) allows an applicant to submit to the City a proposal for waiver or reduction of any development standard, and states that in no case may a city apply any development standard that will have the effect of physically precluding the construction of a housing development project that qualifies for a density bonus.

<sup>3</sup> The project originally proposed 74 units and was later modified to 78 units. The base project, however, is 70.7 units. So although the project originally proposed a Use Permit to exceed to height limit from 50' to 60', this height increase is now considered a modification to accommodate the density bonus units; a Use Permit is no longer required if the project is to be approved.

affordable and density bonus units. As described in the Density Bonus section above, due to the deed restriction on the Channing Parcel limiting the height of new construction to 47 feet all density bonus units are accommodated on the Durant parcel. The result is an 8-story/4-story construction.

Although taller than originally proposed, the project is not out of scale with the existing development and will be proportionate with the new development opportunities in the C-DMU. The Channing portion of the building is four stories and 43.5 feet in height, with a five-story, multi-family building to the east and a three-story, multi-family building to the west. The 84-foot, eight story portion of the building proposed on the Durant parcel is flanked by the Staples parking lot on the east and a 6-story senior housing complex on the west. The latter building is itself non-conforming as the R-3 District has a 3-story, 35-foot maximum height limit.

The project requests use permit approval to reduce the required 20-foot setback down to eight feet where the building exceeds 45 feet on an interior side or rear lot line that abuts a residentially zoned lot.



West Elevation

As shown in the illustration above, the building area that would receive the setback allowance has limited overlap with the window and balcony area of the adjacent senior housing. To reduce impacts on the Stuart Pratt senior housing development, the applicant pushed The Durant as far to the east away from Stuart Pratt (to the Staples side of the parcel) as possible on the ground level. On the Stuart Pratt side (west), the first 14 feet of the building is setback 13 feet from the property line, the next 45 feet is setback 8 feet from the property line, and the last 47 feet has a 43-foot setback. The average setback of the Stuart Pratt side of the project is, therefore, 24.2 feet.

Instead of expanding the footprint to the maximum allowable setback (5 feet), the project is designed with a usable outdoor patio adjacent to the Stuart Pratt that is accessible to all tenants of The Durant and that provides ample spacing between

the two buildings. Additionally, both driveway access and trash bin storage are located on the commercial (northeast) side of the building, while placing the lobby entrance and landscaping next to the senior housing complex. To further limit impacts on the adjacent residences, all proposed balconies on The Durant are restricted to the front corners of the building and to areas that are above the neighboring buildings.

As designed, The Durant is, therefore, both compatible with, and sensitive to, the development pattern of the area and provides a suitable transition from the residentially zoned parcels to the west and to the mixed use zoning to the east.

4. Noise: Concerns have been raised as to the potential noise impact that would occur from the project, particularly from the congregation of residents in the useable open space areas: the ground level patio and the two roof decks. Originally, the project proposed a full rooftop garden for both the “Durant Rooftop” and the “Channing Rooftop” totaling approximately 12,000 square feet. The applicant worked closely with staff and DRC over a period of several meetings and responded to the concerns with a modified design resulting in a smaller amount of open space that is more useable by design and that helps reduce ambient noise. Details of the changes to the Useable Open Space are as follows:
  - a. The Channing rooftop garden was scaled back from 2,482 square feet to approximately 735 square feet and is now designed to be used as a visual landscaped backdrop from the windows in the workout room on the 5<sup>th</sup> floor of the building and is not designed for outdoor gathering.
  - b. The modified 5,986-square-foot Durant rooftop garden has been redesigned to provide more intimate gathering areas. Instead of one large open expanse with a reflecting pool, the open space is now organized into “outdoor patios” including: (1) a “viewing” patio (2) a “conversation” patio, and (3) a “sunning” patio. Although the spaces are smaller overall, they are more useable locations for the residents. In addition, each of these patios has been pulled away from the building’s west edge, away from the senior housing project, to help reduce noise impacts on the neighboring property. Additionally, screening elements (green screens, planters, etc.) have been incorporated into the design to provide windbreaks and additional buffering of the ambient noise.
  - c. The applicant also redesigned the ground level patio area to absorb and reduce noise away from the neighboring property. In working with staff and the DRC, the applicant incorporated natural fencing made of woven mulberry branches and includes a 45% slanted screen on the west fence to deflect noise back into The Durant. The patio now also includes outdoor drapery material to absorb and soften the sound, and a water feature as mechanism for masking ambient noise.

5. Sunlight/Shadows: The project proposes to construct a four-story, 43.5-foot structure on what is currently a vacant lot, and an eight-story, 84-foot structure on what currently houses a two-story church building with a 13-car surface parking lot. As such, the project is expected to create greater shadowing impacts over existing conditions. To assess the shadowing impacts, the applicant submitted shadow studies for the project (see Attachment 2). The studies illustrate that under current conditions, the neighboring properties receive minimal shading impacts from the church. Only during the winter morning hours is there a thin shadow from the steeple and all shading is over by 11:00 a.m. Shading impacts increase with the planned development. All stories of the six-story senior housing complex at 2020 Durant and the three-story multi-family housing at 2023 Channing will be cast in shade throughout the year during the morning hours. All shading impacts will end by 11:00 a.m., even during the winter months. Similarly, the properties immediately to the east of the project (the five-story multi-family housing complex at 2029 Channing and the Staples parking lot at 2352 Shattuck Avenue) will experience shading during the afternoon hours throughout the year. At no time of year, however, would the proposed project cause adjacent properties to lose access to direct sunlight for more than a couple of hours per day. Such shading impacts are to be expected in the Berkeley downtown urbanized area. Staff concludes, therefore, that under these circumstances the shadowing is reasonable.<sup>4</sup>
  
6. Parking: The project proposes 36 vehicle parking spaces in the basement level garage, which are four more spaces than required for the 96 dwelling units (1 space for 3 units). In accordance with the City's Climate Action Plan, as well as to advance more general sustainability goals, the new C-DMU Zoning District employs strategies to reduce vehicle reliance and promote alternative modes of transportation. In accordance with these policies, the project proposes the installation of four electric vehicle charging stations and secure parking for 13 bicycles.

Additionally, as required by the new zoning standards and as conditioned in the project approval, one of the 36 vehicle parking spaces will be reserved as a vehicle sharing spot to be offered to a vehicle sharing service provider at no cost; parking spaces will be leased separately from the unit or bedroom; occupants of the building will not be eligible for Residential Parking Permits (RPP); and the property owner will be required to provide one of the following transportation benefits at no cost to every residential unit : a pass for unlimited local bus transit service, or a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.

The availability of car sharing, the provision of transit passes, the ineligibility for RPPs, as well as the project's proximity to public transit, jobs, goods and

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<sup>4</sup> In correspondence received from the public, concern was raised regarding not only the shading impacts to the neighboring senior housing complex, but the proposed project's effect on the senior units' access to natural lighting. Staff wishes to clarify that while direct access to sunlight provides a brighter degree of natural lighting, even shaded windows provide natural lighting.



services, and the University, will help reduce car ownership and ensure that parking demand does not exceed the project's parking supply. Staff does not believe there will be undue parking impacts to the neighborhood.

## **B. General and Area Plan Consistency:**

General Plan Policy Analysis: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3 Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy UD-17 Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
3. Policy UD-24 Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: Please see discussion under Key Issue 3 above.

4. Policy H-1 Low and Moderate Income Housing: Increase the number of housing units affordable to low- and moderate-income Berkeley residents.
5. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG's Regional Housing Needs Determination for Berkeley.

Staff Analysis: As noted earlier, the project would provide seven units affordable to Very Low Income households and a total of 96 dwelling units. The project will, therefore, help the City to meet its affordable and general housing goals.

6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: Please see discussion under Key Issue 5 above.

7. Policy H-13 Energy Efficiency: Improve the safety and energy efficiency of new and existing homes and apartments.
8. Policy EM-5 "Green" Buildings: Promote and encourage compliance with "green" building standards.
9. Policy UD-33 Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: Pursuant to BMC Section 23E.68.085 and Policy LU-2.1 of the Downtown Area Plan (see below), building construction will attain a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC).

Downtown Area Plan Policy Analysis: The Downtown Area Plan, adopted in March 2012, also contains several policies applicable to the project, including the following:

1. Policy ES-2.1 – Contributions Required of All Development: New buildings and substantial additions, regardless of height, shall provide the following public benefits, except as noted for historic rehabilitations and adaptive re-use of existing buildings.

Staff Analysis: The project provides all public benefits that were required by Council in the C-DMU zoning, including LEED Gold rating or equivalent, on-site public open space, car share spaces, and transit passes. These benefits are required in the proposed conditions of approval.

2. Policy LU-3.1 – Housing Needs: Accommodate a significant portion of Berkeley's share of regional housing growth as defined by Regional Housing Needs Assessments (RHNA) within the Core Area, Outer Core, Corridor, and Buffer areas, as compared with other appropriate areas in Berkeley.
3. Policy LU-3.2 – Housing Diversity & Affordability: Offer diverse housing opportunities for persons of different ages and incomes, households of varying size and the disabled, and give Downtown a significant role in meeting Berkeley's continuing need for additional housing, especially affordable housing.

Staff Analysis: The project will construct 96 dwelling units, including seven that are available for households of Very Low Income (less than 50% of the AMI). The project is located in the Downtown Buffer area that is well serviced by public transportation and is within walking/biking distance to UC Berkeley campus.

4. Policy LU-4.1: Transit-Oriented Development: Encourage use of transit and help reduce regional greenhouse gas emissions, by allowing buildings of the highest appropriate intensity and height near BART and along the Shattuck and University Avenue transit corridors.

Staff Analysis: The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, jobs, basic goods and services, and the UC campus, and by providing car share spaces and transit benefits. As discussed in "Key Issues" above, the proposed height is required by law to accommodate the project's density bonus units and is appropriate as it is a half block west of the Shattuck Avenue transit corridor.

5. Policy LU-4.2: Development Compatibility: Encourage compatible relationships between new and historic buildings, and reduce localized impacts from new

buildings to acceptable levels. The size and placement of new buildings should: reduce street-level shadow, view, and wind impacts to acceptable levels; and maintain compatible relationships with historic resources (such as streetwall continuity in commercial areas).

Staff Analysis: As discussed earlier, the LPC did not object to the demolition of the existing building or forward any comments to the ZAB regarding the building's relationship to nearby historic resources. Shadows on the public right-of-way will not be excessive because the site is located north of Dwight and east of Shattuck. Therefore, for most of the year the project will cast shadows on the street only in the morning hours, when the sky is often overcast. View impacts will be acceptable given that there are no substantial public vistas currently available across the site. Wind impacts would be less than significant, based on analysis conducted for the Downtown Plan EIR (see Policy LU-1.5).

## **VI. Recommendation**

Because of the project's consistency with the Zoning Ordinance, General Plan and Downtown Area Plan, its benefits to the Downtown area and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

APPROVE Use Permit #12-10000017 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

### **Attachments:**

1. Findings and Conditions
2. Project Plans and Shadow Study, dated January 15, 2013
3. Notice of Public Hearing
4. Density Bonus Calculations
5. Correspondence Received

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